

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 18, 1977

Senate called to Order by the President.

Prayer by Reverend Howell K. Lind, Winthrop Street Universalist Church in Augusta.

REV. LIND: Let us pray. Divine Spirit of Life, we pause at the beginning of these proceedings to ask Thy support in the efforts of these individuals to do the Legislative work of the Senate. Give to these, Thy servants, what they need to do the job before them this Session; Hearing keen enough to find the person behind the word; an eye for the real meaning of a document; moderation and deviousness; a reliable knowledge of the real needs of our great State; genuine sympathy for the rich variety of individuals who are the State of Maine; and a mind able to see and admit that it may have been wrong; a vision of the State as she might be; and a purpose to give to the State not what she deserves but something better.

May what they do here today, O Lord, bring the State of Maine closer to justice and to goodness, and may they all find satisfaction in that achievement. In this spirit of service have they gathered, and do we invoke Thy blessing this day.®

Amen.

Reading of the Journal of yesterday.

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

Bill, "An Act to Equalize the Registration Fee on Dogs." (H. P. 509) (L. D. 628)

In the House May 4, 1977 Passed to be Enacted.

In the Senate May 5, 1977 Bill and Papers Indefinitely Postponed in non-concurrence.

Comes from the House, Passed to be Engrossed as amended by Committee Amendment "A" (H-182) as amended by House Amendment "A" thereto (H-342) in non-concurrence.

On Motion of Mr. Hichens of York, The Senate voted to adhere.

(Off Record Remarks)

Non-concurrent Matter

Bill, "An Act Relating to Public Compensation to the Victims of Crime." (H. P. 1535) (L. D. 1760)

In the House, May 10, 1977 Passed to be Engrossed.

In the Senate, May 23, 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 Knox, Senator Collins.

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

The PRESIDENT: The Senator from Knox, Senator Collins, now moves that the Senate adhere. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I move we insist and ask for a Committee of Conference.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the Senate insist and ask for a Committee of Conference.

The Chair recognizes the Senator from Knox, Senator Collins.

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

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Motion to insist and ask for a Committee of Conference, please rise in their places to be counted.

Will all those Senators opposing the Motion to insist and ask for a Committee of Conference,

please rise in their places to be counted.

9 Senators having voted in the affirmative, and 16 Senators in the negative, the Motion to insist and ask for a Committee of Conference does not prevail.

The Senate voted to adhere.

Non-concurrent Matter

Bill "An Act Amending the Ambulance Service Law." (H. P. 1523) (L. D. 1748)

In the Senate May 12, 1977 Passed to be Engrossed as amended by House Amendment "A" (H-298), in concurrence.

Comes from the House, Passed to be Engrossed as amended by House Amendments "A" and "B" (H-345), in non-concurrence.

On Motion of Mrs. Snowe of Androscoggin, The Senate voted to recede and concur.

Non-concurrent Matter

Bill, "An Act to Provide Statutory Procedures for Grievances against Attorneys." (H. P. 701) (L. D. 844)

In the House, May 11, 1977 Minority Ought to Pass Report Read and Accepted, and the Bill Passed to be Engrossed as amended by House Amendment "A" (H-312).

In the Senate May 13, 1977 Majority Ought Not to Pass Report Read and Accepted 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 that the Senate adhere.

The PRESIDENT: The Senator from Knox, Senator Collins, now moves that the Senate adhere.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President, I move the Senate recede and concur, and I ask for a Division.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, now moves that the Senate recede and concur.

A Division has been requested.

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

Will all those Senators opposing the Motion to recede and concur, please rise in their places to be counted.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President, 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 Chair recognizes the Senator from Kennebec, Senator Pierce.

Mr. PIERCE: Mr. President and Members of the Senate: I would like to say just a couple of words, although we did debate this issue the other day.

I think the good Senator from Knox pointed out something very important, that the Bar Association on its own is moving toward procedures that are outlined in this Bill, and I would submit to you that moving toward procedures outlined in this Bill because of this Bill. I would hope that we would want to move this Bill along just as far as we can, and if in the end result it does die on the Appropriations Table, I think the Bar Association is going to be well on notice that they should, and they know they should, I believe, move in this direction to allow the proper grievance procedures.

Certainly this is not an anti-attorney Bill. My friend from Cumberland, Senator Hewes, spoke in favor of the Bill yesterday. As I said before, it is a sunshine law for attorneys. It is going to allow the general public due process that every attorney would want for his or her client.

I hope today we will recede and concur.

Thank you.

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

Mr. COLLINS: Mr. President, I really do not understand why one profession is singled out for this sort of treatment when all professions and trades have an equal percentage of problems, some more visible than others, but the problems are there in every line of work.

I submit that if you want to put this burden of discipline on the taxpayers, this is your opportunity to do so. But if you do that, I fear very much that you will take a lot of the steam out of this profession's efforts to keep its own house in good order.

I urge you to vote in a manner that will terminate this Bill.

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

Mr. PIERCE: Mr. President and Members of the Senate: I feel I must at least reply to the comments of the good Senator from Knox in that under the present law attorneys are receiving something different than the other professions, and this is what this Bill does to correct that situation. If you have a grievance against the real estate, somebody in real estate, you go to the Real Estate Commission, you are going to have a hearing, you are going to have a chance to appear before them, you are going to know why your grievance is accepted or why it is not, with the one exception of the attorneys. You can not do that under present law with attorneys, and that is just not right. I think that they should be treated just like everybody else, and that is the reason I support the amended version of this Bill.

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 recede and concur with the House. A roll call has been ordered.

A yes vote will be in favor of receding and concurring. A no vote will be opposed to receding and concurring.

The Secretary will call the roll.

ROLL CALL

YEA — Carpenter, Hichens, Huber, Levine, Martin, Minkowsky, Morrell, Pierce, Pray, Redmond.

NAY — Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Jackson, Katz, Loveli, McNally, O'Leary, Snowe, Speers, Trotzky.

ABSENT: — Hewes, Mangan, Merrill, Usher, Wyman.

10 Senators having voted in the affirmative, and 17 Senators in the negative, with 5 Senators being absent, the Motion to recede and concur does not prevail.

The Senate voted to adhere.

(See action later today.)

Non-concurrent Matter

Bill, "An Act to Limit Attorney's Fees under the Maine Tort Claims Act." (H. P. 268) (L. D. 826)

In the Senate, May 12, 1977 Majority Ought Not to Pass Report Read and Accepted.

In the House, May 13, 1977 Minority Ought to Pass Report Read and Accepted, and the Bill Passed to be Engrossed in non-concurrence.

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

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

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves the Senate adhere.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President, I move the Senate recede and concur and ask for a Division.

The PRESIDENT: Is the Senate ready for question. The pending question before the Senate is the Motion by the Senator from Androscoggin, Senator Minkowsky, that the Senate recede and concur with the House.

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

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

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

Mr. O'LEARY: Mr. President, 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 Androscoggin, Senator Minkowsky, that the Senate recede and concur with the House.

A yes vote will be in favor of receding and concurring. A no vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEA — Carpenter, Danton, Farley, Greeley, Hewes, Hichens, Jackson, Levine, Martin, Minkowsky, O'Leary, Pierce, Pray, Redmond, Snowe, Usher.

NAY — Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Huber, Katz, Lovell, McNally, Merrill, Morrell, Speers, Trozky.

ABSENT — Mangan, Wyman.

16 Senators having voted in the affirmative, and 14 Senators in the negative, with 2 Senators being absent, the Motion to recede and concur does prevail.

(See action later today)

Non-concurrent Matter

Bill, An Act to Revise the Measure of Damages Under the Unfair Trade Practices Act. (H. P. 277) (L. D. 341)

In the House, May 12, 1977 Passed to be Enacted.

In the Senate, May 13, 1977 Failed of Enactment.

Comes from the House, that Body having Insisted and Asked for a Committee of Conference.

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

Mr. PIERCE: Mr. President, I move we insist and join in a Committee of Conference.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, now moves that the Senate insist and join in a Committee of Conference with the House.

The Chair recognizes the Senator from Knox, Senator Collins.

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

The PRESIDENT: A Division has been requested on the Motion of the Senator from Kennebec, Senator Pierce, that the Senate insist and join in a Committee of Conference.

Will all those Senators in favor of the Motion to insist and join in a Committee of Conference,

please rise in their places to be counted.

Will all those Senators opposing the Motion to insist and join in a Committee of Conference, please rise in their places to be counted.

15 Senators having voted in the affirmative, and 12 Senators in the negative, the Motion to insist and join in a Committee of Conference with the House prevails.

Joint Resolution

A Joint Resolution In Memoriam

WHEREAS, the Legislature has learned with deep regret of the death of the Honorable Carl Stilphen of Rockland, who served in the 97th, 98th, 99, 100th and 101st Legislatures, (H. P. 1568)

Comes from the House, Read and Adopted.
Which was Read and Adopted, in concurrence.

House Papers

Bill, An Act to Revise the Application and Effective Date of the Administrative Court Law. (Emergency) (H. P. 1567) (L. D. 1783)

Comes from the House referred to the Committee on Judiciary and Ordered Printed.

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

Mr. CURTIS: Mr. President, I would like to inquire of anyone who may have reviewed this piece of legislation more carefully than I have, why it is necessary since it is emergency piece of legislation to refer it to the Committee on Judiciary, since, as I understand it, it simply changes the effective date of the law that will go into effect, otherwise a little bit later.

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

Mr. SPEERS: Mr. President, I move that the rules be suspended and that this Bill be given its First and Second Readings, and that further under suspension of the rules it be passed to be engrossed without reference to the Committee at this time.

The PRESIDENT: The Senator from Kennebec Senator Speers, now moves that the Senate suspend its rules in order that this Bill may be given First Reading by title only at this time.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I support the pending Motion. This matter was discussed yesterday in the Judiciary —

The PRESIDENT: The Chair will advise the Senator at the moment he is out of order, since the pending Motion is suspension of the rules.

Is it the pleasure of the Senate that the rules be suspended? It is a vote.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I support the pending Motion. This matter was discussed yesterday in the Judiciary Committee, and the Committee agreed that it was not necessary to have a public hearing.

This law that appoints a new Associate Administrative Court Judge is already on the books, and the appointment is effective as of July 1, 1977. In the meantime the sole Judge of that Court has suffered a heart attack and is unable to function, and if the Governor is permitted to make an appointment promptly, it will fill an important gap in our procedure. He will be doing it July 1st anyway, and this moving it up a matter of 30 days, more or less, will help and the issue is really not one that has not been well faced before.

Under suspension of the rules, the Bill Read a second Time, and Passed to be Engrossed without reference to Committee, in non-concurrence.

Sent down forthwith for concurrence.

Communications Committee on Judiciary

May 17, 1977

The Honorable Joseph Sewall
President of the Senate of Maine
State House
Augusta, Maine 04333
Dear President Sewall:

In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 37 of the 108th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of David A. Nicholas to the position of Justice of the Maine Supreme Judicial Court.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate of the 108th Maine Legislature that this nomination be confirmed. The vote was taken by the yeas and nays. The Committee Assistant called the roll with the following result:

YEAS: Senators 2; Representatives 10.

NAYS: Senators 0; Representatives 0.

ABSENT: 1 (Senator Mangan)

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of David A. Nichols to the position of Justice of the Maine Supreme Judicial Court be confirmed.

Sincerely,

(Signed) SAMUEL W. COLLINS, JR.

Senate Chairman

RICHARD A. SPENCER

House Chairman

Which was Read and Ordered placed on file.

The PRESIDENT: The Joint Standing Committee on Judiciary has recommended that the nomination of David A. Nichols be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on Judiciary be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 37 of the 108th Legislature, the vote will be taken by the yeas and nays.

A vote of YES will be in favor of overriding the recommendation of the Committee. A vote of NO will be in favor of sustaining the recommendation of the Committee.

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

Mr. CURTIS: Mr. President, I urge the Senate to sustain the unanimous recommendations of the Judiciary Committee on this matter.

This is, indeed, a historical occasion. We have before us the name of a gentleman who has been nominated by the Governor to fill the newly created position of the seventh Justice of the Maine Supreme Judicial Court, the highest Court in the State, and, of course, a co-equal branch of government with the Legislature and with the Executive.

In its analysis of the nomination, the Judiciary Committee took a great deal of care, because this was precedent setting for us, as well as for the Legislature, and we examined the judicial philosophy, the background, the legal knowledge, the capacity for judicial temperament, the health of the nominee as it might affect his career on the Law Court, and a number of other areas that were of interest to the Judiciary Committee.

Judge Nichols is a man who is dedicated to Justice, and he is dedicated to the law. I happen to know him fairly well, I believe, because as ten years ago as his law clerk I learned a great deal working in his office in Camden. One of the things that he told me was that, Ted, you do not have to be a brilliant student of the law to be a successful attorney in a small Maine town, but

you do have to establish a reputation for honesty and hard work.

The man whose name we are considering here today is a person whose has done both, established a reputation for honesty and hard work certainly, but also a reputation for being a brilliant student of the law.

His background includes being a founder and past President of the Maine Trial Lawyers Association, a Member of the Board of Governors of the American Bar Association, and a leader in other Judicial circles, as well as a person who has served his State in the past as a member of the Executive Council of the State.

I think in the presentation which was made by Justice Nichols to the Judiciary Committee, we realized that he is well aware of the challenges that are facing the Courts of the State of Maine now and will face the Courts in the future, and he was very candid with the Committee in presenting his views on areas of innovation and areas of importance to the future of the Courts and to the people of the State, on such matters as Probate Court reform, unification of the Bar, and other matters discussed by the Courts in the future.

The Governor in his communication to the Judiciary Committee called Justice Nichols eminently qualified, as did the Chairman of the Governor's Select Committee on Judicial Appointments, Attorney Charles W. Smith of Lyman. I think this is certainly a credit to the State of Maine that we are fortunate enough to be able to attract such fine people to the Judiciary in the State of Maine.

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

Mr. MANGAN: Mr. President and Members of the Senate: I was unavoidably absent at the time of the confirmation hearing, and, therefore, my name appears as being absent; however, I have had the opportunity to know the Honorable David A. Nichols and I have found him to be an outstanding individual. I believe that the Governor out-did himself this time in selecting a most qualified, most scholarly person to the Supreme Court, and for all intents and purposes I would like to have the Members of the Senate know that the vote on that Committee actually would be 13 to 0.

I would urge the Senate to confirm the nomination of David A. Nichols to the Supreme Judicial Court.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: I am going to go on record this morning as opposing the confirmation of David Nichols.

I first want to stress to the Senate that I have never met the gentleman. The only thing I can base it upon is what the Members of the Judiciary Committee have said, and also some newspaper articles that have come out, and calls from constituents, who feel that he maybe is eminently qualified to serve in a particular capacity, but is close-minded insofar as the death penalty in the State of Maine is concerned, and as an advocate of mandatory sentences.

Without further ado, Mr. President and Members of the Senate, I want to have my vote recorded accordingly, that I feel this way as a layman.

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

Mr. CURTIS: Mr. President, I would like to correct one item that I understood the previous speaker to mention — that the nominee is an advocate of mandatory sentences. That was not the point of view that was expressed by Justice Nichols before the Judiciary Committee, just the opposite in fact. He seemed to be a proponent of Judicial discretion insofar as possible, and when asked the question about the death

penalty, he indicated that he personally might have views that would be opposed to mandatory death penalty or a death penalty at all.

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

Mr. MERRILL: Mr. President and Members of the Senate: I cannot help but feel some sense of pride as I watch this confirmation process going on, and particularly with regard to the Report today, which is not really a unanimous report of the Judiciary Committee, that the matter before us result in confirmation.

One of the things that all of us hoped for when we brought an end to the Executive Council was that the undue partisanship that used to color the decisions of that Body from time to time, would not be repeated in the Legislative process that we set up. There was a time when the Executive Council not only refused in many cases to confirm people of a different party than themselves, but often times they refused to confirm people of the same party who had strayed from the flock and supported somebody from the other party when they ran for office. That used to mark the Executive Council.

I am glad to say as one of the people who helped bring that Body to an end, that that is not marking the Legislative process as we do these confirmations. I think it is something that we can take pride in.

The PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Greeley.

Mr. GREELEY: Mr. President and Members of the Senate: Probably I have known Dave Nichols longer than anybody else in this Body. I was in town affairs when his father was a selectman, probably over 40 years ago, and I have had a chance to see Dave Nichols grow up, and I can assure you he was brought up the right way. And I can also assure you that the people of Waldo County are really proud of this nomination, and they will be more proud after confirmation by this Body.

The PRESIDENT: Is the Senate ready for the question?

A vote of yes will be in favor of overriding the recommendation of the Committee. A vote of no will be in favor of sustaining the recommendation of the Committee.

The Secretary will call the Roll.

ROLL CALL

YEA — Minkowsky.

NAY — Carpenter, Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Hewes, Hichens, Huber, Jackson, Katz, Levine, Lovell, Mangan, Martin, McNally, Merrill, Morrell, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Trozky, Usher, Wyman, Sewall.

One Senator having voted in the affirmative, and 32 Senators in the negative, and 32 being more than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of David A. Nichols is confirmed.

(Off Record Remarks)

Office of the Governor

May 17, 1977

To: The Honorable Members of the House of Representatives

and the Senate of the 108th Maine Legislature

I am this date returning without my signature and approval S. P. 149, L. D. 391, "An Act Relating to Representation of State Employees Under the State Employees Labor Relations Act.

The arguments against this bill have been articulated quite clearly and forcefully ever since the bill was initially submitted. I will not go through a long review of those arguments.

I cannot approve of legislation which would require that State employees or any other public employees must pay a fee to an organization for the privilege of working for their own

government. The fact that this bill makes negotiation of union security clause a subject for negotiation rather than requiring it by law does not alter my opposition. If this bill becomes law an employee's obligation to pay a fee in order to work for his own government will be put on the bargaining table and bartered. To the extent that the agency shop could be traded off for the withdrawal of other union demands, then negotiated settlements are at the expense of the rights and freedom of public employees. In my opinion, this is an unjustified infringement on the public employees' freedom of association.

Just as citizens in government should have an opportunity to dissent and to voice opposition, members in an organization which is supported by its members and is to serve as a representative of its members should also be subject to the same kind of scrutiny. If an organization is effective and if it commands the respect of its membership then it will be successful in retaining and attracting members. By forcing membership into an organization, the immediate benefit is to the organization itself and its own bureaucracy and the interest of the officers of that organization.

Maine people are independent people. They are not afraid to speak their mind and to stand up and be counted. You cannot coerce respect from them. You have to earn it. With that in mind I am respectfully returning this legislation without my approval.

Very truly yours,

Signed:

JAMES B. LONGLEY

Governor

Which was Read and Ordered Placed on File.

The Accompanying Bill "An Act Relating to Representation of State Employees Under the State Employees Labor Relations Act" (S. P. 149) (L. D. 391)

On Motion of Mr. Speers of Kennebec, Tabled for One Legislative Day, Pending Consideration.

Reconsidered Matter

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

Mr. CONLEY: Mr. President, with reference to Bill "An Act to Provide Statutory Procedures for Grievances against Attorneys", (H. P. 701) (L. D. 844), I now move the Senate reconsider its action whereby the Senate voted to adhere, and I would hope the Senate would vote against my reconsideration Motion.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the Senate reconsider its action whereby it voted to adhere on L. D. 844.

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

Senate Papers

Mrs. Snowe of Androscoggin presented, Bill, An Act Providing the Governor with the Authority to Reorganize a Department or Agency of State Government. (S. P. 500)

Mr. Curtis of Penobscot presented, Bill, An Act to Reorganize Certain Boards and Commissions and to Affiliate Certain Boards and Commissions with Departments of Maine State Government. (S. P. 501)

Which were referred to the Committee on State Government and Ordered Printed.

Sent down for concurrence.

Committee Reports House

Leave to Withdraw

The Committee on Agriculture on, Bill, An Act to Require the Department of Agriculture to Study the Feasibility of Establishing a Central Grain Handling Facility in Maine. (H. P. 1338) (L. D. 1620)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

The Committee on Agriculture on, Bill, An Act to Permit the Commissioner of Agriculture to Inspect Meat Plants Doing Business with Firms in Other States. (H. P. 1063) (L. D. 1376)

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 Require 2-Way Radios on School Buses Operated by School Administrative Units. (H. P. 1307) (L. D. 1544)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

The Committee on Election Laws on, Bill, An Act Relating to Campaign Expense Reports. (H. P. 1416) (L. D. 1628)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

The Committee on Legal Affairs on, Bill, An Act Relating to the Regulation of Watchmen, Guards or Patrolmen. (H. P. 990) (L. D. 1192)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

The Committee on Public Utilities on, Bill, An Act Providing for an Experimental Measurement of Electrical Residential Load and Demand Requirements. (H. P. 1324) (L. D. 1558)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

The Committee on Public Utilities on, Bill, An Act to Limit the Types of Advertising which Public Utilities may Charge to their Ratepayers. (H. P. 1284) (L. D. 1538)

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 Business Legislation on, Bill, An Act Relating to Recoupment Procedures under the Maine Medical and Hospital Malpractice Joint Underwriting Association Act. (H. P. 514) (L. D. 632)

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 Converting Hammond Plantation into the Town of Hammond. (H. P. 1088) (L. D. 1312)

Reported that the same Ought to Pass.

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

The Committee on State Government on, Bill, An Act to Establish Procedures for Promulgation of Regulations Governing Travel Expense Reimbursement. (H. P. 656) (L. D. 799)

Reported that the same Ought to Pass.

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

The Committee on Transportation on, Bill, An Act Relating to Expenditures of the Town Road Improvement Fund. (H. P. 1132) (L. D. 1350)

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.

Ought to Pass — As Amended

The Committee on Election Laws on, Bill, An Act Concerning Sound Media Near Voting Places on Election Day. (H. P. 981) (L. D. 1187)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-324).

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

The Committee on Marine Resources on, Bill, An Act to Create the Voluntary Fish Products Inspection Program. (H. P. 995) (L. D. 1184)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-331).

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

The Committee on Transportation on, Bill, An Act to Define the Term Intersection. (H. P. 1220) (L. D. 1447)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-334).

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

The Committee on Transportation on, Bill, An Act to Permit Carpools Under the Public Utilities Law. (H. P. 247) (L. D. 319)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-333).

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

The Committee on Transportation on, Bill, An Act Relating to Use of Motor Vehicles in Racing Events. (H. P. 206) (L. D. 265)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-323).

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 Bill Read Once. Committee Amendments "A" were Read and Adopted in concurrence, and the Bills, as amended, Tomorrow Assigned for Second Reading.

The Committee on Taxation on, Bill, An Act Relating to the Motor Vehicle Excise Tax. (H. P. 243) (L. D. 316)

Reported that the same Ought to Pass as amended by Committee Amendment "B" (H-335).

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

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

The Committee on Agriculture on, Bill, An Act to Amend and Repeal Certain Laws Relating to Agriculture. (H. P. 1065) (L. D. 1292)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-320).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A", as amended by House Amendment "A" (H-346), Thereto.

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

Ought to Pass in New Draft

The Committee on Performance Audit on, Bill, An Act to Require a Cost-Benefit Evaluation of Government Regulation. (H. P. 776) (L. D. 979)

Reported that the same Ought to Pass in New Draft under same title. (H. P. 1565) (L. D. 1779)

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

Which Report was Read and Accepted in concurrence.

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

Mr. KATZ: Mr. President, this is a rather lengthy Bill, and it looks like an important Bill. I wonder if a Member of the Committee would explain what they have done.

The PRESIDENT: The Senator from Kennebec, Senator Katz, has posed a question through the Chair to any Member of the Committee who would care to answer.

The Chair recognizes the Senator from Cumberland, Senator Morrell.

Mr. MORRELL: Mr. President and Members of the Senate, the thrust of this Bill is rather simple, that is to require that before any rule or regulation goes into effect it has to be justified from a cost standpoint.

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

(Off Record Remarks)

Divided Report

The Majority of the Committee on Liquor Control on, Bill, An Act to Permit the Sale of Dessert Wine at Retail Stores. (H. P. 768) (L. D. 1019)

Reported that the same Ought Not to Pass.

Signed:

Representatives:
MARSHALL of Millinocket
GRAY of Rockland
RAYMOND of Lewiston
MAXWELL of Jay
IMMONEN of West Paris
JACQUES of Lewiston
CONNERS of Franklin
LIZOTTE of Biddeford

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-305).

Signed:

Senators:
LOVELL of York
LEVINE of Kennebec
DANTON of York

Representatives:
NADEAU of Sanford
TWITCHELL of Norway
NADEAU of Sanford
TWITCHELL of Norway

Comes from the House, Bill and Papers Indefinitely Postponed.

Which Reports were Read.

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

Mr. LOVELL: Mr. President, and Members of the Senate: There seems to be some misunderstanding and some irregularities on this particular Bill.

I am going to move the Minority Ought to Pass Report, which was signed by all three Senators.

This Bill was introduced in the Other Body by the gentleman of the opposite party than myself, which I have a great deal of esteem for, but I have not as yet had the time or been given what I think is accurate figures for this Bill. I have a great deal of material on the Bill, but it conflicts with other materials, and I want to straighten this material out before this goes any further.

I understand the other Body played in the hands yesterday —

The PRESIDENT: The Chair would request the Senator to confine his remarks to this Body.

Mr. LOVELL: Excuse me, Mr. President, if the President could hit the hammer quick enough for the Ought to Pass Report, I would appreciate it. If not, I would request that this Bill be tabled for — well, sometime. I will leave it to our Majority Leader to table the Bill.

Thank you, Mr. President.

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

Mr. CONLEY: Mr. President, at the request of Mr. Norman Ferguson and the Jannace Brothers, I move this Bill and all its accompanying papers be indefinitely postponed.

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

Mr. LOVELL: Mr. President, I was at a party last night at the Silent Woman, so I am not in quite as good condition this morning.

I still would request that this Bill be tabled.

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

Mr. SPEERS: Mr. President, I move that this Bill lie on the Table until Tuesday next.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that this Bill, L. D. 1019, be tabled until Tuesday next pending the Motion of the Senator from Cumberland, Senator Conley, that this Bill be indefinitely postponed.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, directing my debate to the timing of the tabling Motion, I would ask the Senate to consider whether or not it is going to take that long to develop the information that is required, and I would ask the Senate to support a tabling Motion of a shorter duration.

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

Mr. HICHENS: Mr. President, I ask for a Division on the tabling Motion.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Motion to table this Bill until Tuesday next, please rise in their places to be counted.

Will all those Senators opposing the Motion to table this Bill until Tuesday next, please rise in their places to be counted.

17 Senators having voted in the affirmative, and 16 Senators in the negative, the Motion to Table does prevail.

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 to Appropriate Funds for Cystic Fibrosis Drugs and Treatment. (S. P. 168) (L. D. 485)

Leave To Withdraw

Mr. McNally for The Committee on Labor on, Bill, An Act Relating to Workmen's Compensation for State Law Enforcement and Institution Personnel. (S. P. 331) (L. D. 1090)

Reported that the same be granted Leave to Withdraw.

Mr. Levine for the Committee on Marine Resources on, Bill, An Act to Require the Use of Tugboats by Tankers Transiting Hussey Sound in Casco Bay. (S. P. 388) (L. D. 1301)

Reported that the same be granted Leave to Withdraw.

Ought to Pass — As Amended

Mr. Farley for the Committee on Business Legislation on Bill, An Act Relating to Conduct of Examinations. (S. P. 97) (L. D. 226)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-149).

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.

Divided Report

The Majority of the Committee on Legal Affairs on, Bill, An Act to Amend the Requirement for Public Notice of Public Proceedings under the Right to Know Law. (S. P. 426) (L. D. 1484)

Reported that the same Ought Not to Pass.

Signed:

Representatives:

COTE of Lewiston
GOULD of Old Town
DURGIN of Kittery
MOODY of Richmond
SHUTE of Stockton Springs
JOYCE of Portland
DUDLEY of Enfield
BIRON of Lewiston
BURNS of Anson
CARRIER of Westbrook

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

Signed:

Senators:

CUMMINGS of Penobscot
CARPENTER of Aroostook
HEWES of Cumberland

Which Reports were Read.

On Motion of Mr. Hewes of Cumberland, Minority Ought to Pass Report accepted. The Bill Read Once, and Tomorrow Assigned for Second Reading.

Second Readers

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

House

Bill, An Act Exempting Farm Machinery from the Personal Property Tax. (H. P. 393) (L. D. 482)

(See Action later Today.)

Bill, An Act Providing Funds for a Fishway at the Frankfort Dam in Frankfort. (H. P. 1153) (L. D. 1371)

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

House — As Amended

Bill, An Act to Clarify Vocational Education Reimbursement in Vocational Centers and Vocational Regions. (Emergency) (H. P. 98) (L. D. 122)

Which was Read a Second Time.

On Motion of Mr. Speers of Kennebec, Tabled until later in Today's Session, Pending Passage to be Engrossed.

(See Action later today)

Bill, An Act to Repeal Certain Laws Relating to State Government Administrative Procedure and Services. (H. P. 1005) (L. D. 1209)

Which was Read a Second Time and Passed To Be Engrossed, As Amended, in concurrence.

Senate

Bill, An Act to Eliminate the Requirements that Registrars View Naturalization Papers of Naturalized Citizens. (S. P. 343) (L. D. 1127)

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

Sent down for concurrence.

Senate — As Amended

Bill, An Act to Make Allocations from the Maine Coastal Protection Fund for the Fiscal Years Ending June 30, 1978 and June 30, 1979. (S. P. 105) (L. D. 234)

Bill, An Act Relating to Membership on the Maine Council on Alcohol and Drug Abuse

Prevention and Treatment. (S. P. 190) (L. D. 587)

Bill, An Act to Designate the Arnold Trail Highway. (S. P. 190) (L. D. 1217)

Which were Read a Second Time and Passed To Be Engrossed, As Amended.
Sent down for concurrence.

Reconsidered Matter

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

Mr. CONLEY: Mr. President, with reference to Bill "An Act Exempting Farm Machinery from the Personal Property Tax" (H. P. 393) (L. D. 482), I now move the Senate reconsider its action whereby this Bill was passed to be engrossed.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves the Senate reconsider its action whereby L. D. 482 was passed to be engrossed.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I would ask the question through the Chair as to the purpose for reconsideration.

The PRESIDENT: The Senator from Kennebec, Senator Speers, has posed a question to the Senator from Cumberland, Senator Conley, who may answer if he so desires.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I believe I am having an Amendment drafted for this particular Bill.

On Motion of Mr. Jackson of Cumberland, Tabled for One Legislative Day, Pending the Motion of the Senator from Cumberland, Senator Conley, that the Senate reconsider its action where by this Bill was passed to be engrossed.

Enactors

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

An Act to Provide that Hancock County Commissioners Shall be Elected by Districts. (H. P. 829) (L. D. 1002)

An Act to Repeal Certain Laws Relating to Occupations and Professions. (H. P. 962) (L. D. 1159)

An Act to Correct the Used Car Information Law. (H. P. 903) (L. D. 1103)

An Act to Limit the Duration of Sentences to County Jails. (H. P. 1078) (L. D. 1302)

An Act to Require that Androscoggin County Commissioners Live within the District from which they are Elected. (H. P. 1145) (L. D. 1374)

An Act to Modify the Grounds for Divorce and the Proceedings to Obtain a Divorce. (H. P. 1537) (L. D. 1762)

An Act to Repeal Certain Laws Relating to Defense and Veterans Services. (H. P. 1542) (L. D. 1764)

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)

An Act Concerning Gubernatorial Appointments to the Board of Commissioners of the Profession of Pharmacy. (H. P. 503) (L. D. 622)

An Act to Exclude Sparklers from Prohibition against the Sale of Fireworks. (S. P. 379) (L. D. 1255)

An Act to Establish an Annual Procedure for Updating Open Water and Ice Fishing Regulations. (H. P. 189) (L. D. 251)

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)

An Act Relating to Acquisition of Interest in Financial Institutions. (H. P. 401) (L. D. 511)

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 Possession of Firearms by Persons Convicted of Certain Crimes. (H. P. 1536) (L. D. 1761)

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray, with reference to L. D. 1761.

Mr. PRAY: Mr. President, I would like to pose a question through the Chair with reference to this Bill to perhaps somebody on the Committee, as to the necessity of this. As I understand it, this is now prohibited under Federal Legislation, and if that is so, then I cannot see the necessity for it, to further enact Legislation on the State level for something that is already taken care of.

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

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I guess I am not as much an authority on Federal Legislation on guns as the Senator from Penobscot, Senator Pray. If anyone wants that material developed, I would be glad to bring it to the Senate if the matter is tabled for a day.

The chief purpose of this change is that there was some confusion in the gun possession material that was brought to the attention of the Committee. As you may recall we have in the Criminal Code a provision that whenever a criminal offense is committed with a firearm, that the penalties with respect to that offense, are escalated by one step automatically. There are also, of course, crimes which relate to the simple possession of a firearm. There is some confusion as to whether there was a double escalation of penalty in those cases, or whether it was a single escalation. I think this is what touched off the attempt to clarify this law.

The other thing that we tried to address in this law was the question about the use of the gun by a person who had been convicted of a hunting violation. It was felt that there were some hunting violations which did involve the use of a gun where perhaps there ought to be an opportunity to go hunting again someday if a proper application was made and consideration given by the authorities. And so that was written into this particular act.

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

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)

An Act to Appropriate Money for Revolutionary War Veterans Grave Markers. (H. P. 794) (L. D. 906)

An Act to Provide for the Purchase of Certain Town Histories. (H. P. 1534) (L. D. 1759)

An Act to Provide Certified Interpreter Service for the Deaf and Hearing Impaired. (S. P. 311) (L. D. 1031)

On Motion of Mr. Huber of Cumberland, Placed on Special Appropriations Table, Pending Enactment.

An Act to Establish a Presidential Primary in the State of Maine. (H. P. 187) (L. D. 249), Comes from the House, Failed of Enactment.

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

Mr. CONLEY: Mr. President and Members of the Senate, the Bill before us right now, I would assume, would meet its demise here this morning, unless there is a very serious attempt on the part of the Senate to try to keep this Bill alive and to perhaps try to make, within that

section of this law, an attempt to bind delegates to a National Convention.

I think that is where the hangup is on this whole particular Bill, and unless somebody cares to table this and prepare an Amendment to do such, then I am fearful that this Bill will be put to rest for this Session.

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

Mr. SPEERS: Mr. President, I hope that this Bill will be enacted here today, and will return to the other Body for their additional consideration.

The Bill has been debated many, many times. It has been amended several times, and I would hope that the other Body would take another look at this and not kill the Bill when it goes back down to the other Body. I would hope the Senate would continue in the position that it has taken to this point, and would enact this Bill to provide a preferential presidential primary for the State of Maine.

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

Mr. CONLEY: Mr. President, I can only state that the members of my party would be more than willing to suspend the rules for the purpose of offering another Amendment that will make this Bill both palatable to this Senate and also to the vast majority of the other Body. Unless Members of the Majority Party here makes such a move, then I request the Members of the Democratic Party to vote against the enactment of this Bill.

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

Mr. CONLEY: Mr. President, I request when the vote is taken that it 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 Senator present and voting. Will all those Senators in favor of a roll call, please rise in their places to be counted.

On Motion of Mr. Huber of Cumberland, Tabled for One Legislative Day, Pending enactment.

Emergency

An Act to Authorize Certain School Debt Service Payments to be Offset by Increased Payments to the Treasurer of State. (H. P. 975) (L. D. 1172)

On Motion of Mr. Huber of Cumberland, Placed on Special Appropriations Table, pending enactment.

Orders of The Day

The President laid before the Senate: Bill, "An Act to Reorganize the System of Public Post-secondary Education of Maine." (S. P. 95) (L. D. 219)

Tabled — May 16, 1977 by Senator Curtis of Penobscot

Pending — Consideration.

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

Mr. CURTIS: Mr. President, as many of you know I have had a great deal of concern about the future of the University of Maine, and this piece of Legislation is a greatly watered down version of an initial Bill that I put in to correct some problems that I saw in the University System.

However, since the beginning of this session, I think this Legislature has taken a commendable action of paying a great deal of attention — much more so perhaps than perhaps we have had in the past — to the problems in the potential of the University of Maine. I would include in the commendations that I would like to make along that line, the recent action that I understand is being taken by the Appropriations Committee to consider increase in the appropriations in the Part I Budget of the University of

Maine of something more than \$4 million for the next biennium. I think that recognizes a very severe need that exists among the many campuses of the University.

I also note that the Governor has just this week signed into law the freedom of access law, the Right to Know Law, as it applies to the University of Maine Board of Trustees, its Committees, Sub-Committees and the Administrative Council, as well as the Board of Trustees and their Committees and Sub-Committees of the Maine Maritime Academy. I think that that Legislation has already indicated the interest that this Legislature has in registering its concern for openness in University matters and other matters of concern to all of us in publicly supported higher education.

I do appreciate the initial vote that was had in this Senate of 20 to 9 on the Amendment that is now currently before us, but I think that additional time might better be spent by this Legislature more productively working on the problems of appropriations for the University as it faces continued crisis of quality and finances and, therefore, Mr. President, I move that this Bill and all its accompanying papers be indefinitely postponed in concurrence with the House.

On Motion of Mr. Curtis of Penobscot, The Senate voted to recede and concur.

(Off Record Remarks.)

The President laid before the Senate: Bill, "An Act Relating to the Spending Ceiling for Education Purposes." (Emergency) (H. P. 968) (L. D. 1165)

Tabled — May 17, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed

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

Mr. KATZ: Mr. President, the Committee on Education is preparing a fact sheet that lays the issue out on this Bill very clearly, pro and con. When I received it this morning, it was not complete. It is now being completed and should be ready momentarily, and I would hope someone would table this Bill until tomorrow so you can have the benefit of the information. In the event that the Senate adjourns prior to the distribution, I suggest that we put copies of this in the office of the President of the Senate at the front desk and I would urge every member of the Senate to pick one up. I will be available to answer any questions if any arise.

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

On Motion of Mr. Speers of Kennebec, Retabled for One Legislative Day.

Senator Huber of Cumberland was granted unanimous consent to address the Senate on the record.

Mr. HUBER: Mr. President and Members of the Senate, in response to the good Senator from Penobscot, Senator Curtis' comments on the funding of the University, I would simply like to emphasize to the Senate that all of the tentative decisions of the Appropriations Committee in their first review of the Part I budget are just that. These are tentative decisions, and until we can total the budget, they will not be made final, and I am not necessarily referring specifically to the University of Maine or any other specific items, but I hope people do not put too much reliance on the first run through of the Part I budget.

The President laid before the Senate: House Reports — from the Committee on Judiciary — Bill, "An Act to Repeal the Marijuana Decriminalization Statute." (H. P. 1272) (L. D. 1500) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass

Tabled — May 17, 1977 by Senator Speers of Kennebec

Pending — Motion of Senator Collins of Knox to Accept the Majority Report.

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

Mr. CARPENTER: Mr. President, Ladies and Gentlemen of the Senate: I apologize for taking your time this morning, but I have some thoughts that I would like to share with you on this Bill, and I feel this Bill has been tabled and has been around for quite a few days and I would like to get a few things on the record. I would request initially when the vote to accept the Majority Ought Not to Pass Report is before us that the vote be taken by the yeas and nays.

Mr. President, Ladies and Gentlemen of the Senate: If I stay in the Maine Senate for as many terms as my distinguished colleague from Waldo, Senator Greeley, I will never rise on an issue that I feel any more strongly about. I would just like to share with you a few facts and a few of my own thoughts, and I am sure there will be many people in this Body, as there were in the other Body, that will feel equally strong on the other side.

Two year ago the Maine Legislature, in what at that time was rather a far reaching or sweeping proposal, a radical proposal, if you will, for the State of Maine, I thought, decriminalized personal possession of marijuana and I think I would initially like to zero in on that word "decriminalization," because I think we all know what was done. I think we passively legalized personal possession of marijuana. I made this point two years ago in the other Branch, and I stand here again now and I say that is what was done. I think if that is what the Maine Legislature wanted to do they ought to come up front, up on top of the table, and introduce legislation to legalize.

I said two years ago that if we decriminalize personal possession, we were in effect saying to the police in the State of Maine, we were in effect saying to the people of the State of Maine, that this is no longer an offense against society to possess marijuana. It is no longer considered dangerous by the Maine Legislature and, therefore, we are going to make it a civil offense, similar to a parking ticket. I think this was very, very wrong. I think when we said this especially to the young people, and I know that this is not an exclusive substance of the young people of the State of Maine — I know there are many persons my age and older who do use marijuana — but I think when we particularly said to the young people, this is like a traffic ticket, this is like a parking ticket, that we said to them in effect that it is alright to go ahead and use it. I think this is wrong and I think we better take a look at it.

I am going to hear the argument this morning against my position that we do have legalized alcohol in this State, and I agree. Maybe that is not right. But I would just ask you to consider one thing. If you drink a fifth of whiskey every day for the next twenty years. I can tell you based on medical evidence what is going to happen to your body. There is hard medical evidence as to what alcohol will do to your body. There is no hard medical evidence as to what marijuana will or will not do to your body. That is a fact. Now I may have studies quoted this morning that say that the effects of marijuana, long term consumption, are not hazardous. I have studies on my desk that say that they are. What I asked the Maine Legislature to do two years ago was to wait and see. Lets not do something that we may regret. I think we made a mistake two years ago. I would like to take the first step to correct that mistake this morning. I know realistically, being a practical politician, there probably are not the votes in this Legislature to recriminalize. I would ask, however, this morning that we reject the Ought

Not to Pass Report, and I will make a Motion to accept the Ought to Pass Report, and perhaps we can amend the marijuana possession statute to make the penalties for possession a little bit more severe, so perhaps we can deter our young persons, especially.

All during this Session whenever we have had a group of young people down from Aroostook County, I have talked to them, and they are concerned about it. Wisdom High School in St. Agatha Maine, students were concerned about the number of persons who were smoking marijuana during school hours. We spent a great deal of time in this Body two months ago debating the drinking age. Well, I just would ask you one question, which is easier to conceal, a bottle of beer or a joint of marijuana? I spoke last Saturday night to a group of about 20 Seniors at the University of Maine at Presque Isle. You would be surprised, Ladies and Gentlemen, how they feel about this. These are Seniors in college who have student taught in the various high schools in the State of Maine. They are concerned about it. Now they may not have been concerned about it if they were Sophomores and wanted to indulge in this a little bit more themselves, but they are concerned about it. They say there is a big problem in our high schools and in our junior high schools.

The first argument I expect to hear this morning is the fact that it does not fit. What I want to do does not fit into the Criminal Code. The Criminal Code was created by this Legislature, and it can be amended by this Legislature. And I do not want to put anybody in jail for smoking marijuana; I do not want anybody to have a criminal record for smoking marijuana. Marijuana, in my mind, is a special case and we could make a special exception in the Criminal Code, and I think it should be done.

I have evidence on my desk from the International Drug Report that says the big difference between marijuana and alcohol is alcohol is water soluble. Twelve hours after you take a drink of alcohol, it is completely out of your system. And the report says that Columbian marijuana, which I would remind you we just had \$2 million worth seized off the Maine coast, Columbian marijuana with higher than three per cent of THC remains in your system, in your bladder, in your sex glands for up to two weeks. Now this scares me. We have had many states, and I find it ludicrous that our Maine Criminal Code says in it that it is expected that many States will normalize or decriminalize marijuana in the next year. This was put in the Maine Statutes two year ago. I would just like to read you a list of States that refused to decriminalize marijuana this year. Washington State, which I would point out is next door to the great leader of the decriminalization movement. The State of Oregon, which was the first, Washington State after watching Oregon for four years has now said, no I do not think we better go that route. That is not what we want to do. New Hampshire, North Dakota, New Jersey, Indiana, Maryland, Connecticut have all refused or rejected Bills to decriminalize marijuana this year. South Dakota, which did decriminalize, has now recriminalized. I think that is very, very important to keep in mind.

I have many other things I could say about this Bill, and as I said when I first rose, there is nothing that I will ever rise on the floor of this Senate that I will feel any more strongly about. I hope that this morning we will take a hard look at this issue. I hope that we can send it back to the other Branch in an Ought to Pass posture and perhaps in an amended posture. I think the reason that marijuana was decriminalized two years ago was a great deal of concern about our young people, and about criminal records, and about people going to jail, and the feeling that because everybody is doing it we ought to make it legal or make it a civil offense was very

prevalent in this Legislature, and anybody that was here two years ago will remember that. Well, it is an accepted part of society. It is accepted, — nobody looks down on it anymore. I would just ask you this question. If that is the argument and if you believe that, then why do you feel that a conviction for marijuana on somebody's record is going to prevent them from ever holding a good job. The two arguments just do not wash. If I am an employer and marijuana use is so accepted, then when I see that Joe Jones or Susie Smith has a conviction for possession, why should this immediately make me as an employer think that they are not fit to work for me? This is the argument that was put forth two years ago, and I submit to you that marijuana is an accepted part of our society. I just do not want to make it any easier. We say legalize — well, I do not say legalize. We have enough legal vices now.

We spent a great deal of time in this Legislature talking about what is right and what is wrong for our young people. I hope that this morning, and in any subsequent debate, we take a real hard look at a substance that we do not know about, at a substance that we, in fact, legalized — in effect legalized — two years ago. I would point out to you the headlines of the Portland Press Herald yesterday morning. \$2 million worth of high grade Colombian marijuana was seized off the Maine coast, in a boat equipped with, according to the Maine State Police, the most sophisticated radar and electronic devices that they have ever seen. Why would not somebody who had marijuana to sell, why would not they come to the State of Maine and sell it. since the State of Maine, in fact, legalized possession of marijuana two years ago.

I think we have a basic inequity in our law. We say that it is alright to have enough marijuana to make up approximately a package of cigarettes. We say that that is okay. It is like a parking ticket. But yet when you get enough marijuana to make up two packages of cigarettes, you can go to jail for five years. Well, if it is alright to use it, why is it not alright to sell it. I think we have a basic inequity in the law there, and I would like to see this inequity corrected.

I would hope this morning that we would reject the Ought Not to Pass Report, accept the Ought to Pass Report, get it to a posture where I can amend it, and I would ask you to look at L. D. 1500. There are provisions in there for imprisonment. I do not want this. I do not want anybody to go to jail. Give this Bill its First Reading this morning. I personally will prepare an Amendment, an if it is not acceptable to this Body, I will personally move for the death of this Bill.

Thank you very much.

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

Mr. MANGAN: Mr. President, as one of the, I believe, three signers of the Minority Ought to Pass Report, I rise in strong support of the statements made by the good Senator from the County of Aroostook, Senator Carpenter.

I have taken my position as a signer of the minority report after much consideration of all of the presented facts in both hearings and further readings I have got.

I fully realize that harsher penalties on the use of marijuana will not decrease the number of users of this weed, and the Texas experience supports this finding, however, it is my impression that the police officers in the State of Maine will have a far simpler task of arresting the pushers if a user can be arrested.

The opponents of this bill cite that the State of Maine should not consider the harmful effects of smoking marijuana because the State Legislature does not concern itself with the harms of alcohol, cigarette smoking or abortion, yet, there has been legislative concern

with the general health and welfare of our population, including education, parental care, speed of motor vehicles, etc.

The Report of the New York State Council on Drug Addiction in 1973 states that: after 48 hours more than 50% of the chemical breakdown products of marijuana were still in the body, and as much as 10% of it remained for as long as a week.

It is a generally accepted fact that because marijuana is illegal, the people who are the largest dope operators are usually involved with organized crime.

In the Marijuana Epidemic Hearings before the United States Senate Judiciary Committee, on May 8, 1975, at p. 490, — of the persons who used to smoke marijuana but no longer do, 52% cited the fear of getting arrested as their reason for quitting, more than any other reason offered. Of persons who have never used marijuana, 51% indicated fear of getting arrested as a reason for not smoking.

Maine Police officers have often complained that a marijuana smoker is much like the drunk driver behind the wheel of a car. In one recent study twelve volunteers used the equivalent of 3.2 grams of marijuana and under actual driving conditions passed 35 stop signs, ignored three red lights, made 233 parking mistakes, ran through 19 pedestrian crossings and demolished a wall of plastic blocks. This study was done by the College of Physicians and Surgeons of Columbia University in 1975.

As to the issue of the victimless crime, the United States Department of Health and Welfare, citing the Marijuana Hearings before the Senate Judiciary Committee, which were held in May through June of 1974, has indicated that at high doses, the fetal levels of an unborn fetus become high enough to cause embryonic and fetal deaths.

Now, interestingly enough, on Monday, the 16th of May, 1977, the New York Times carried a letter to the Editor written by Nicholas Pace, Medical Doctor. The letter was written May 6, 1977, an Dr. Pace states:

"Now that New York State is going to ease the marijuana laws, it is time to tell the public about the drug's harmful medical effects, since many are under the false impression that marijuana is no more harmful than tobacco or alcohol.

Tobacco has no hallucinogenic effect, whereas marijuana does. Marijuana is far more irritating to the respiratory tract than tobacco. It takes 20 years of heavy tobacco smoking to produce the same type of severe sinusitis, pharyngitis, bronchitis and emphysema that one year of daily marijuana smoking produces. Tar from marijuana painted on the backs of animals has caused cancer.

As for alcohol: One can have one or two drinks a day for 20 or 30 years and never suffer ill effects. Alcohol is water soluble. One ounce is completely metabolized down to water and carbon dioxide in 12 hours. Marijuana is not water soluble. It is fat soluble, and the active psychotropic ingredient (delta-9-THC) accumulates in the tissues of the body that are fat-laden, including the brain and sex organs, in the same manner as DDT. In animal experiments with radioactively tagged delta-9-THC, the THC was still detected in the brain, liver, lungs and reproductive organs two weeks after a single injection. THC accumulates in the system in the same way that DDT has been found to accumulate.

One does not hallucinate from one or two drinks. Hallucinations from alcohol usually occur only with far advanced disease, whereas marijuana's effect on the brain causes the hallucinogenic effects of distorted time and space and sound in some cases every time the drug is used even in small doses.

Scientific studies worldwide have shown that

chronic marijuana use causes inhibition of cellular growth, reduction in sperm production, development of abnormal sperm cells, interference of the synthesis of important genetic material in the cell, interference with the immune system, destruction of chromosomes, abnormal embryonic developments and birth defects in experimental animals and above all, brain damage.

The medical literature is also replete with scores of psychiatric studies which illustrate that the chronic use of marijuana can cause impaired judgment, diminished attention and concentration span, slowing of time sense, loss of motivation, loss of thought continuity, loss of learning ability and in numerous instances psychosis.

Although alcoholism is presently our most serious drug problem, marijuana has the potential of becoming an even greater problem, since it is being used by an uninformed public. One has to recognize that, for many, decriminalization is tantamount to legalization.

No one wants to throw young people into jail, but there are effective alternatives to decriminalization. In the Sacramento Citation-Diversion Program, for example, youths arrested for possession are referred to a drug information study course; upon its completion, their arrest records are wiped clean. Perhaps it is time for the media to interview reputable scientists, physicians and patients in drug rehabilitation centers concerning the harmful effects of marijuana before a whole generation of our youth is severely damaged because of ignorance."

Further, Members of the Senate, I happen to come across a tremendous legal argument developed in the Commonwealth of Massachusetts. It is a ruling by Justice Joseph Tauro in the case entitled *Commonwealth v. Joseph D. Leis and Ivan Weiss*. It is a Superior Court ruling, No. 28841-2; Justice Joseph Tauro is now on the Supreme Judicial Court of the Commonwealth.

He stated in his opinion as to the reasonableness of the Legislation and dangers of marijuana, "this Commonwealth's Statutory scheme of regulating the possession and sale of narcotic drugs, admittedly a virtual prohibition as applied to marijuana, is predicated upon the premises that its use is harmful and dangerous, and its strict regulation and virtual prohibition is a rational means of preventing the harm and damage attendant upon its use."

"The next and central issue would logically seem to be a determination of whether there are facts in existence, or which reasonably could be conceived to exist, that would sustain a Legislative conclusion that the use of marijuana is harmful or dangerous."

"It is my opinion, based on the evidence presented at this hearing, that marijuana is a harmful and dangerous drug. The effects of marijuana are not readily predictable, and, to a great extent, depend upon and accentuate the psychological predisposition of the user. The drug, as it is commonly used, has as its primary, and as far as I can ascertain, its only purpose, the induction of a state of intoxication or euphoria. While under the influence of marijuana, a person's mental processes are disoriented. His perception of time and space is distorted. His coordination is impaired, but his strength remains undiminished."

"Marijuana tends to cause the user to lose perspective and to focus his attention on one objective, to the exclusion of all others. The drug has a great attraction for young men and women of college age or less, during the formative years, when they should be gaining the education and experiences upon which to build their future lives. Furthermore, there is a wide spread emotional instability among the users of marijuana. The use of the drug allows them to

avoid the resolution of their underlying problems, rather than to confront them realistically."

"In addition, users naturally associate with other users, who are also likely to have emotional problems and compound one another's difficulties. In such persons, the use of marijuana may cause temporary psychotic episodes. They develop a drug oriented culture, which is marked by peculiar proselytism, whereby users strive to induce non-users to the drug. Marijuana users customarily use the drug with specific intent of becoming intoxicated. No evidence was introduced to show any significant number of persons who use marijuana to achieve a state of relaxation short of intoxication. Even the so-called regulatory process of self-titration is employed to obtain a desired state of intoxication, not to stop short of intoxication."

"A great deal of testimony was devoted to the addictive qualities of marijuana. While marijuana is not physically addictive in the sense that heroin is, it can cause psychological dependence in the user. The user can come to depend upon marijuana as a crutch and its usage becomes habitual. It is this form of addiction which modern medical experts assert is the proper definition of the term."

"Given the effects of marijuana and the character of its users, the possible dangers associated with its use are clearly discernible. Its tendency to release inhibitions, both verbally and actively, and its dependence upon unpredictable effects upon the disposition of the users, marijuana can be especially volatile when used by a despondent, hostile or unstable person. Its impairment of motor coordination, coupled with the retention of muscular strength and the distortion of time and space relationships, makes it extremely hazardous upon those operating machinery, especially automobiles, and among those individuals responsible for the care and custody of other persons, such as the parents of young children."

I will not go on in great length with the opinion, the opinion runs approximately thirty-five page or so, but primarily I think we have established the fact that marijuana use is not a victimless crime. We have established the fact, I think, that the use of marijuana tends to aggravate the psychological psychosis of an individual, it becomes an intoxicant. The serious question comes up here that if somebody is driving under the influence of marijuana, they are very dangerous to other drivers on the road. If someone is using marijuana and they have the care or children, they are apt to do something which would not rationally be done by someone not using marijuana.

I feel that medically, psychologically, legally and every other way I have justified the recriminalization of marijuana, and I would urge the Members of the Senate at this time to seriously consider whether we should allow this drug to be legalized as far as the young users are concerned.

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

Mr. DANTON: Mr. President and Members of the Senate, today I am going to vote with the Senator from Aroostook, Senator Carpenter, and I feel about the same as he does. I do not want to see anyone go to jail. I would like to see exactly what his Amendment is going to do.

I am concerned to the point when I leave my house in the morning and go to pick up my seatmate to come to Augusta, and go by the Junior High School and see boys and girls passing a joint around at 8:00 in the morning. Somehow that just does not set right with me. I do get concerned when high school students that work for me come in and tell me that they can not go to the boy's room or the girl's room and not get zonked out, or whatever the term is that they

use, because there is so much marijuana being used in the schools. How we are going to control it, I do not know. But I know this, that the kids today, and not just the young kids, their late teens and early twenties, are very, very brazen. When you cannot go to a restaurant and sit down and have a meal, and at the table next to you or the booth next to you, after their meal they light up a joint, there just has to be something wrong with our society.

So today I am going to support the Senator from Aroostook, Senator Carpenter.

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

Mr. KATZ: Mr. President, I guess I will have to agree there is something wrong with our society. It is awfully hard to be consistent.

I would like to share some remarks made by the man who has legal responsibility as Director of the Office of Alcoholism and Drug Abuse Prevention in the State of Maine. He points out that in 1975 there were 1500 admissions to mental health facilities for treatment of the drug he is discussing, 2000 general hospital admissions, 3000 emergency room admissions, 4000 admissions to State funded treatment centers, 46 percent of the divorces in Maine last year were related to problems resulting from the use of this drug, high proportion of teenage run-aways, child abuse and neglect cases, 64 percent of the murders in Maine in 1975 involved the use of this drug, 66 percent of the 4000 cases or disorderly conduct; and he is not talking about pot. He is talking about alcohol, which is legal.

Now alcohol never hurt anybody unless it was abused. I have a feeling that the abuse of food probably kills more people in the United States than all the other causes put together. It has been estimated that 25 percent of the premature deaths in the United States, and by premature it means death before age 60, would be completely wiped out if we just changed our life style.

Now here is a point I would like to make about pot, and ask you to come to your conclusions. The State of California did a very interesting survey and it is not going to take 35 pages, I will tell you very quickly. This is a very sophisticated study, across California \$1630.00 for every pot arrest. Of course, California is a pretty expensive State, and the proposal is let us make believe it only cost Maine one-third of that figure for each pot arrest. At the 1976 rate of arrests for marijuana use in the State of Maine, there are 1800 arrests made, and if you multiply that figure by just one third of the California cost you get up to \$945,000.00 that it probably would cost Maine in 1976 to go around arresting people for use of pot. We have had some inflation, and the Director has come to the conclusion that probably if this Bill is reinstated, if this Bill were to pass, it is going to cost about a million and a half dollars to go around the state arresting people for the use of pot.

I would ask the Senate whether or not the million and a half dollars could be used better to give information to kids about pot, to advise the public of all the very interesting and persuasive figures, information raised by the Senator from Androscoggin, Senator Mangan. And I would also ask you whether the million and a half dollars could be better used perhaps in dealing with the problems of the use of alcohol. I think that the Senate is faced with another question of passing another law and trying to decide a societal problem by legislation.

I would hope that the Senate accepts the Motion of the Senator from Knox, Senator Collins, to accept the Majority Ought Not to Pass Report.

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

Mr. PRAY: Mr. President and Members of the Senate, I have become a little confused by the statements of the good Senator from Kennebec, Senator Katz, I am not sure if he is promoting education or if he is attempting to address a problem we have here.

I do not honestly believe that if we kill this Bill that we are going to save the State of Maine a million and a half dollars that we could channel to the educational process. I do not believe that if we kill this Bill that we are going to let policemen go, that we are going to have less law enforcement officials running around the state, to save that million and a half dollars. I have had a number of Bills that had appropriations note attached onto it as to what the additional cost would be and there is existing personnel there doing it and what it is going to cost the state. An example of hiring somebody or paying somebody a percentage of his salary which he already receives. So let us not become confused that this is going to cost the state additional money to enforce. The existing municipal police are there. The existing State Police are there. We do have a proposal for continued funding of the DSI, which has a lot of drug investigation. So let us not cloud the issue up with the cost factor and feel as if we are going to save the State of Maine money.

The basic question is the problem at hand with the use of marijuana. And as to our own personal philosophy, as to whether or not we believe that the penalties that now exist are severe enough to serve as a deterrent.

I think that this Motion that is now pending, should be defeated, and that we should accept the Minority Ought to Pass Report, and I think we should continue it through the process of the enactment stage.

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

Mr. CONLEY: Mr. President and Members of the Senate, a week or so ago I would have probably bet even money that capital punishment, the bill that came before us may, just possibly have flown through this Chamber, and it was a great feeling to know that reason prevailed and that the Bill was soundly defeated.

The good Senator from Kennebec, Senator Katz, certainly has spent a great deal of time over the past several years dealing with the problems of alcoholism. I am sure that not only he and I agree, but the vast majority of people who deal with this problem that alcohol is the number one drug problem we have, not only in the country, but in the world.

It seems to me that people get all shook up and all excited because of a little situation we call marijuana. Now as far as myself, I have never had that great opportunity to have been able to have smoked what they call a joint. I do not know how many other Members of this Senate have tried it, but I have not. Now I might say my kids have, so like a bloodhound I can come into the house and I can smell sort of a strange odor, not quite a normal aroma that prevails over my home, and I check downstairs into the basement, and I will find three or four kids there playing whist or they are playing chess, but they are also sitting there, maybe with a six-pack and a couple of joints. Well, the six-pack does not bother me. Marijuana, that upsets me a little, and I have told them that is persona non grata in this home. "If you want to enjoy yourselves you can come in here and have all the enjoyment you want with the beer and with the chess and so forth."

But what disturbs me is the reason, I believe, and I strongly believe that there has been no case made, scientifically made, that marijuana, as much as we all may dislike it, and as much as many of us may never want to use it, or have ever used it, get worked up to the point where we are going to start making criminal

laws to put kids in jail or to have total harassment by individuals whom we put badges on to enforce the powers and the laws that we pass.

Now let me just give you a few words of what these imbeciles, and I say imbeciles, that we have given these powers to, have done over the past, when it was illegal to possess marijuana. If you recall back several months ago when we first got here, and it seems to me it was almost years ago, there was a Bill that I raised strong objections with the good Senator from Knox, Senator Collins, that gave the Commissioner of Public Safety the most stringent powers that I could ever see going to any one particular individual. I still hold those strong reservations about that bill although it became law and signed into effect.

Let me tell you about the glorious City of Portland, where we have these so called "undercover agents", dressed in plain clothes, who use to mount the top of the commercial buildings with pairs of binoculars, to look down upon 17, 16, 18 year old kids who might be sitting out in a car or sitting up on the promenade passing a joint around. Oh, such a tremendous criminal offense. And only to have these kids all herded, brought into jail, bailed out, brought to court, published in the newspaper, embarrassed not only them but their entire families for such a serious, serious, criminal offense against the state. Now is this what we want to return to? I say no, and again it goes back to the family, back to the parent and their relationship with their children, and I could care less what any cop, what any Chief of the State Police, or the Commissioner of Fish and Game, for that matter, has to say about this problem. I hope that this Bill is soundly defeated and that sanity is restored to the State of Maine.

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

Mr. LOVELL: I feel that I should, Mr. President and Members of the Senate, say a few words on this Bill, having been a pharmacist for many years and I can remember when Cannabis Indica, which is the Latin name for marijuana, that we sold it over the counter, and we had absinthium and absinthium was used as an aphrodisiac by the doctors, and I am sure you all know what an aphrodisiac is. So, consequently, I have seen marijuana sold legally years ago. But in all my studies and in the various articles that I have read, I have never seen that marijuana was a very serious drug unless it was abused or not in moderation. Well, any drug, I do not care what you take, whether its Librium, Valium, if you do not use it in moderation, or alcohol, it is naturally going to hurt you. They are stopping saccharin now because they fed rats what is equivalent to 1,200 bottles of tonic with saccharin in it every day, and after a number of years the rats got cancer. Now who is going to drink 1,200 bottles of tonic a day.

So, consequently, I believe we should hold the law as it is now. We have a penalty on the law as it is now. This is not any worse than drinking in my opinion.

I would hope the Senate would go along with the Ought Not to Pass Report.

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

Mr. HICHENS: Mr. President and Members of the Senate, I arise to oppose the Motion to accept the Majority Ought Not to Pass Report of the committee, and urge you to vote to repeal the present law in regards to possession of marijuana. We have been told that possession of small amounts now allowed causes no problems. But I insist that the possession of any amount allows the legal use of drug and causes problems.

I draw your attention to the report distributed by me concerning the marijuana coverup and portions of it which were read by the good Senator from Aroostook and hope that you have

taken time to read it. Thousands of young people die as a result of marijuana and stronger drugs that it leads to, and yet we decriminalize possession.

The Maine Chiefs of Police Association, who are so directly involved with ramifications of this law, justifiably plead with us to repeal the present law, and I would refer to a letter from them dated December 27, 1976.

"Evidence shows that the rush to decriminalize and legalize marijuana and hashish by a highly active lobbying organization and a massive, misleading, propaganda campaign is being pushed, state by state without suitable consideration of: (1) Necessary legal safeguards to discourage use, (2) New cautionary medical evidence and (3) The fact that such legal decriminalization by governments is giving the drug an unwarranted 'good housekeeping seal of approval' as a harmless substance and suggests a social sanction especially to youth. Evidence also shows that this campaign is part of a larger and fast speeding-up propaganda effort to legalize all dangerous drugs from hash to heroin which history shows would be a disaster for America. The danger is that once a drug is 'legalized' or decriminalized, it becomes almost impossible to reverse the situation."

Three basic points are made in the propaganda and lobbying campaign which is flooding America:

1. That these drugs are essentially 'harmless'
2. That only a small minority will become drug abusers if drugs become legally available
3. That attempts by law and police action to curb drug use is both impossible and a terrible waste of taxpayers money. Legalizing use is the only solution.

All three points are discredited by history, medical science, day-to-day police experience and common sense. The drugs now being heavily promoted have either already been proven or are considered to be potential health and/or social hazards by responsible authorities.

Those who complain about the high cost of legal and police efforts to control dangerous drugs forget to consider the terrible cost to a society when a drug becomes epidemic. Abuse of legally available alcohol, for example, causes financial loss to American industry, and thus the economy, of an amount equivalent to the entire cost of the nation's educational programs. They also forget the enormous family pressures which will rise up to re-instate controls once newly legalized drugs begin to create addictions among our under age youth. Canada's national commission, for example, recommended against legalizing marijuana since it would then be impossible to keep the drug from becoming epidemic among maturing youth where it causes the most damage.

Evidence placed before the Senate Internal Security Committee also supports common sense and police experience in the following:

(a) The more legal and easy a drug is available, the more it will be used with the potential for epidemic spread increasing year by year as was the case with cigarettes after their invention. Oregon police records show large increases in marijuana arrests following introduction of their new 'decriminalization' law.

(b) Fair but adequate and properly enforced laws have proven to be the most effective way of preventing drug epidemics according to world experience, particularly if accompanied by educational programs on medical and social evidence of a drug's harm and on alternative lifestyles. Speeding laws, for example, do not stop all speeding, but they do keep it under control as do occasional crack-downs on drinking-drivers. The law is also a teacher. We have observed that since Maine's decriminalization law came into effect youngsters have the idea

that cannabis must be okay to use because they do not get 'busted' anymore for possession.

(c) Misleading propaganda about the 'harmlessness' of cannabis and other drugs has greatly encouraged wider drug use, disrespect for legal restraints, and increasing support for legalization campaigns."

The good Senator from Kennebec, urges us to kill this Bill today. Earlier in the Session he opposed raising the drinking age. On that Bill and this one before us today, he states that these Bills will not solve the problem, yet with all his expertise he has not shown me any alternative which will work. Education is fine, but when young people do not listen, education counts for little.

With these thoughts in mind, I urge you to oppose the Majority Ought Not to Pass Report.

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

Mr. COLLINS: Mr. President, this particular Bill has much of its support and emphasis from the Chiefs of Police Association in Maine. The Chiefs are sincere in their views and I share with them the great concern they have about the proliferation of this drug in our society. But the Chiefs are not 100 per cent of the same mind. I would like to read from a letter from the Chief of Police from the town of Windham. He says "Dear Senator Collins:

"I would like to express my opposition to L.D. 1500, An Act to Repeal the Decriminalization of Marijuana. My opposition to L. D. 1500 rests with three points."

"Initially, I have a philosophical problem with the bill. It is my contention that the appropriate role of government is to provide services to a population when it is clear that the service must be provided in a uniform and comprehensive manner and to enact measures that safeguard the population from clearly demonstrated hazards. The issue of marijuana as a health hazard to the individual and a hazard to the population at large is still unresolved. The competent literature to date presented by both sides of the issue is conflicting. In my opinion the absence of the clearly defined hazard, requires that no criminal sanctions be imposed."

"Secondly, the imposition of criminal sanctions should accomplish two purposes: to punish and/or rehabilitate and to deter. It is evident to me that the imposition of criminal sanctions regarding the simple possession of marijuana has not acted as a deterrent to its growing use. In the pursuit of simple marijuana possession cases, law enforcement agencies have used scarce resources that would better be channeled toward reducing abuse of harder types of drugs where the hazard of their abuse is clearly demonstrated."

"Thirdly, we are embarking on an experiment regarding the decriminalization of marijuana. The approach is new and the final evaluation of the experiment is somewhere in the future. It does not seem appropriate to abandon a new approach before it can be adequately tested in favor of an approach that has been tried and found to be unsuccessful."

Sincerely,
(s) Gregory C. Hanscom
Chief of Police

My own concern with this problem is based on a very narrow ground when it comes to making the difficult decision. My reading of the literature and my talks with physicians lead me to the opinion that this is a harmful substance. When I read about males who are heavy users and their enlarged mammary glands and pus oozing from those glands, I have to think that there is something going on in the body that is not good.

So I do not have to be persuaded that this is a potentially dangerous drug for many people: How many, we do not know. Some people seem

to get along with it very well and have no problems. But it is the unknown quantity that bothers us.

My rationale is that we have to choose priorities in our society. We have to decide whether to spend our police time, our taxpayers money, emphasizing the less important crimes or the more important crimes. I think you heard my views in this same area when we talked about Prostitution Bill. My views are the same here. Some of my friends say to me "how can you, a good church going man, be in favor of prostitution and pot." I am not in favor of prostitution and pot. That is not the issue. The issue is where do we spend our money most effectively in ordering our society.

The Senators from Aroostook, Senator Carpenter, and from York, Senator Danton, have expressed their great concern about young people and this is a concern that I share. I have teenagers, and I have had to watch very closely what goes on among their associates. But one thing that I think you overlook here is that we did not change the criminal nature of marijuana possession for young people. It is still a juvenile offense, just the way it was two years ago. We simply provided exactly what Senator Carpenter wants: We provided that the juvenile offense of possession of small amounts would not be punishable by incarceration in the jail. But we left in place the sanctions of fines, sentences where probation could be used. We brought in this Legislature and there will be other Bills coming through yet, about how juveniles can be placed in programs of work and restitution. So when you talk about children under 18, if you pass this Bill you would not be changing what we have right now.

The problem, as I see it, is that there is a great deal of popular misconception about what the law is. To my dismay, I received only this week a letter from a Judge indicating that that judge is not aware about what the law is with respect to juveniles. I have seen three public addresses by prominent police officers in the State of Maine since the Criminal Code took effect, which the news reporter interpreted and the headline writer interpreted to the public to mean that that officer considered that marijuana had been legalized. That is not what we did. That officer either was not accurately stating the law, or if he did so state it the reporter or the headline writer was not accurately reporting what the officer said. And I think it is incumbent upon all of us, our high State Officials, our Police Officers and Legislators to make it clear that we have not made legal marijuana, that we have simply changed the method of approach for adults with respect to the possession of small quantities, an ounce and a half or less. And those adults are liable to a \$200 fine if they are caught. Some of our enforcement people have said it is very difficult to enforce this sort of a fine. I wonder if they really tried. It is very difficult to collect parking tickets violation, too, I suppose. But I was checking with one court office on the percentage, and the percentage at that particular time was 93 percent paid these civil violation fines without exertion of the machinery for collection. Some of them were a little late, but they paid.

In other words, we have a fairly high standard of self-policing in this country. In the Internal Revenue Service, we know that those percentages are high, and in parking and other civil violations we know that the performance of the citizenry in general is pretty good.

The good Senator from Androscoggin, Senator Mangan, suggested that if users could be arrested, it would be easier to get to the pushers and traffickers. That would be an important and effective argument if it were so, but the experience that I hear and read about does not agree with that point. In fact, last year the

Chiefs of Police were anxious that we talk again with the people in the State of Oregon, which first pioneered this experiment. They wanted to bring police officers from Oregon here to talk with us, and it was rather costly, and we said, well, rather than do that, why don't we make a telephone call, and we did that. We got several Members of the Judiciary Committee on a phone line, a party conference, and we set up a conversation with police officers out in Oregon recommended to us by our own Chief, and we decided we ought to talk also with enforcement people in the District Attorney offices. So we also did that.

The information that we have was that with this civil approach on small amounts, that they were getting at more of the big pushers of hard narcotics. They were getting more convictions and what they call higher quality convictions. That is, they were getting at the big boys, somewhat better. This was the view of the prosecutor. The view of the cops on the beat was that there was a general increase in use of drugs of all types.

I guess I have said as much as I should about this. I think I would just summarize in this way, — we have on our desks, many of us, the 1976 Crime Report, the one with the green binding. This Report indexes the most serious crimes, murder, rape, robbery, aggravated assault, burglary, larceny, motor vehicle theft. We know that the crime rate has been on the increase. However, the clearance rate for 1976 was slightly increased over the previous year. It moved up to 22.3 percent. So I would ask you, if you had to make this choice, namely that the efforts of the police are only large, so many hours, so many dollars, so many people, and that they could either concentrate on burglaries, or they could concentrate on pot violations for small possessions, and if you could not have both, which would you choose, which kind of direction would you give your police officers if you were the policy making person or body in your Town or City. The clearance rate of 22.3 percent on our major crimes is too small. One of the editorial writers in the Kennebec Journal said "We are spending too much police time on the small crimes, that ought to be spent on the big crimes".

That is the narrow point that I would urge you to consider in voting in favor if the Majority Report.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Redmond.

Mr. REDMOND: Mr. President and Members of the Senate, I do not like the usage of pot in our society, and more especially in our schools, and the permissiveness among many of our educators. It is regretful to have to accept the popularity of these joint sessions amongst the children and grown-ups.

I believe in attacking a problem at the cause, and this brings up a question. Are we doing away with our ability to attack the drug traffic and the one who goes off and profits by selling it, and at this point I would like to ask a question of the Chair. What is happening to the Drug Special Investigation Unit, the DSI.

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

Mr. PIERCE: Mr. President and Members of the Senate, in answer to the question of the good Senator from Somerset, Senator Redmond, the present position of the Division of Special Investigation Unit is that it is in the Appropriations Committee at the moment, and probably I would expect would be out of that Committee sometime in the fairly near future.

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

Mr. MORRELL: Mr. President and Members of the Senate, the Appropriations Committee does have that matter under discussion. The present inclination, as I recall, is that we are

going to consider transferring it into the Department of Public Safety or recommending it.

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

Mr. MANGAN: Mr. President, I am amazed by some of the discussion that we have had here this morning, particularly by the comments of my great Leader from the County of Cumberland, Senator Conley.

I was amazed at those poor, holy, over-worked police officers who must cleanse the streets of criminals, these hard-core criminals, the prostitutes, and we have to give them a tool to work with, because this is such a horrendous crime, today become imbeciles with so much time on their hands they are hanging over roof tops and checking kids with joints in their hands with binoculars.

I really have to basically state that children or young adults are not born with an addiction to marijuana, but they are recruited. They are recruited by other users.

Finally, as far as the Honorable Chairman of the Judiciary Committee, Senator Collins, made a statement, reading a letter from Chief Greg Hanscom, relating to this is basically an experiment and we must continue with this experiment to find out more about it. The experiment is going on every day, and the question comes in here. We have shown, I think a great deal of harm from this. If this experiment continues, all we will be doing is continuing to harm our young people, and I cannot see us continuing an experiment of this type.

Thank you.

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

Mr. CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, I apologize for rising a second time. My first time on my feet was my emotional time, and now is my scientific time, I would like to think.

I would like to answer a couple of the questions put forth by persons who oppose my particular position. I have heard a great deal about the State Police, and they do not have the time in the City of Portland, and I think we are being misled a little bit. I was disturbed by the comments of the Senator from Knox, Senator Collins.

You think about your small town police force, and you would think that we were asking them to be pulled off their weekly murder to go chase pot smokers. I do not think that is what we are asking at all. I do not think we have to make a determination when we vote on this Bill as to whether we are assigning a higher priority to marijuana users than we are to murderers or rapists or muggers. I think that the police have the time, but I do not think that the police have the inclination, because the Maine Legislature has decided that it is not a serious enough offense.

I would like to answer a couple of the questions from Knox, Senator Collins' comments, he admits that there is conflicting evidence. My only comment to that is if there is conflicting evidence, why don't we wait until the evidence is soundly on one side or the other. He comments further that what the law is regarding juveniles. I agree. I know what the law is regarding juveniles. But I submit to you that when the Maine Legislature two years ago said that this is not a serious offense, that it said it not just for a certain age group, but as far as our police are concerned and as far as the community at large is concerned, we said it for all.

Just two small points — if you would read the guest editorial that was distributed by the Senator from York, Senator Hichens, I would answer my good colleague, the Senator from York, Senator Lovell, when he says that he can see no evidence of damage. I would quote to you from a report by Dr. Robert Heath, Professor

of Psychiatry at Tulane, and an experiment with Rhesus monkeys, and it says "the irreversible brain atrophy or damage in the Rhesus monkey was produced with the human equivalent of one marijuana cigarette". Now I do not stand before you today and say that this is conclusive evidence that anybody who smokes pot is going to suffer brain damage, but I think it is one more piece of evidence that maybe we should weigh.

Two years ago, and I apologize, I do not have the study with me now, I rose in the House and talked about a study report by a Professor of Psychiatry at Berkley, which you all know is a focal point of, — I do not know if I want to say radicalism, but focal point of new ideas. This man, and I do not even remember his name, was one of the leading proponents of legalized pot during the 1960's. During the turbulent 60's he led the charge in this Country to legalize marijuana, and in the 1970's he said I do not like what I have seen. I do not like my students and my patients who all of a sudden do not think quite as well, who all of a sudden are not quite so sharp, who all of a sudden do not do quite as well on tests, so maybe we should wait, and I would finally just like to read to you one sentence or a couple of sentences from the report of the Massachusetts Superior Court, and I would ask you what other drug or what other substance do we have in our society where the major intent of the use of that substance is to become intoxicated. I quote, "The vast majority of alcohol users do not consume it with the intention of becoming intoxicated. What other reason is there to smoke marijuana than to become intoxicated."

I would just like to leave you with this thought, that my good colleague, the Senator from Knox, Senator Collins, says that we are engaging in an experiment the past few years. I would just say to you that I feel the experiment has been a disaster. It has been a failure, and I think if nothing else the seizure of \$2 million worth of marijuana, Colombian marijuana, off of our shores earlier this week should show us that that experiment has not been a success.

Thank you.

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

Mr. CONLEY: Mr. President and Members of the Senate, I honestly have felt that that was what the Maine Legislature would hope would be happening right along. I think it did come as a surprise to some of us that the Maine shore was being used as the source of bringing hard drugs and marijuana in, not only to Maine but apparently to traffic throughout New England.

It is a compliment in a sense that law enforcement officials were able to bring about the seizure of this particular cargo.

There is one other thing that I think disturbs me about re-activating the possession of marijuana as a crime. And although I, too, am as guilty, I guess, as my colleague from Aroostook, Senator Carpenter, in getting emotionally upset. I get upset because I have a great deal of concern and feeling for individuals who are generally taken advantage of by the law. And I do not mind spelling out one specific example.

There was a young lad two years ago who was walking down a street, had the day off from school, and a few of his chums had gotten together and they had a six pack of something, and drinking beer, and one of them was on his way home, and he was walking a little tipsy down the street, when one of the cruisers of one of our finest Cities in the State, who shall remain nameless, stopped and picked this young lad up, put him in the cruiser and took him down to the station. The father of that son was given an immediate phone call, telling him that his boy was down there and they would like his father to come down and bring him home. I do

not mind telling you I was that father.

They called in the officer that brought him in to the station, and because of the fact I also serve on the Portland City Council, the young fellow who was the patrolman was a very young lad and obviously very nervous because of the fact that he happened to bring in a boy whose father happened to be on the Portland City Council. I talked with him, and I told him he did exactly the right thing. He had two alternatives. He could have brought him to my home, or he could have brought him down to the station, and he chose the station, which was perfectly alright with me.

Such as is the case when they bring in any youngster, or any individual, they have them unload their pockets. My son happened to have some wrapping paper, whatever you call it, wrapping paper or something, and immediately they called the Narco — I call them the Nut — but they call them a Narco Agent downstairs, and they showed him what they brought out of his pockets, and he said to him, look at it, I want you to extract the residue from the pockets and the lining of that boy's jacket. Take a chemical test, and if you can bring positive identification of marijuana, book him for possession.

Now this is the kind of garbage that goes on in some law enforcement agencies throughout this State. It is so imperative and so demanding that we make the pinch, that we make the arrest, without any due consideration or concern of what they are doing to that particular child before them.

I think it is time, Mr. President and Members of this Senate, that law enforcement agencies all over this State become aware of what the social problems are, and that they start addressing them as social problems, and not just outright law breaking citizens. There are many, many problems that constitute the violations of law, and society itself is most directly responsible for those problems.

I assure the Members of this Senate, if we take another step backwards by reinstating this stupid thing that we are discussing here today as a criminal act, we will only add further injury to those individuals.

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 Majority Ought Not to Pass Report of the Committee.

A yes vote will be in favor of accepting the Majority Ought Not to Pass Report of the Committee. A nay vote will be opposed.

The Secretary will call the Roll.

YEAS — Collins, D.; Collins, S.; Conley, Cummings, Curtis, Hewes, Huber, Katz, Levine, Lovell, Martin, Merrill, Minkowsky, Morrell, Pierce, Snowe, Trotzky, Usher.

NAYS — Carpenter, Chapman, Danton, Farley, Greeley, Hichens, Jackson, Mangan, McNally, O'Leary, Pray, Redmond, Speers, Wyman.

ABSENT — None.

18 Senators having voted in the affirmative, and 14 Senators in the negative, the Motion to accept the Majority Ought Not to Pass Report does prevail.

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

Mr. CONLEY: Mr. President, having voted on the prevailing side, I now move the Senate reconsider its action whereby it accepted the Majority Ought Not to Pass Report, and would urge the Senate to vote against me.

The PRESIDENT: The Senator from

Cumberland, Senator Conley, now moves the Senate reconsider its action whereby it accepted the Majority Ought Not to Pass Report of the Committee.

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

Reconsidered Matter

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

Mr. JACKSON: Mr. President, having voted on the prevailing side with reference to Bill, "An Act to Limit Attorney's Fees under the Maine Tort Claims Act" (H. P. 268) (L. D. 826), I now move the Senate reconsider its action whereby it voted to recede and concur, and I would urge when the vote is taken that the Senate vote with me, and I request when the vote is taken I would ask for a Division.

The PRESIDENT: The Senator from Cumberland, Senator Jackson, now moves that the Senate reconsider its action whereby it voted to recede and concur with reference to L.D. 826.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President, I move this item be tabled for One Legislative Day.

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

Mr. SPEERS: Mr. President, I request a Division on the Tabling Motion.

The PRESIDENT: The Senator from Kennebec, Senator Speers, requests a Division on the Tabling Motion.

Will all those Senators in favor of tabling L.D. 826 for One Legislative Day, please rise in their places to be counted.

Will all those Senators opposed to tabling L.D. 826 for One Legislative Day, please rise in their places to be counted.

4 Senators having voted in the affirmative, and 28 Senators in the negative, the Motion to table does not prevail.

The PRESIDENT: The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Jackson, that the Senate reconsider its action whereby it voted to recede and concur with the house with reference to L.D. 826.

A Division has been requested.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I hope that the Senate will vote yes on this measure. One of the things that we must keep in mind is that if we start to regulate charges for one group in our society, we will soon be faced with regulating the charges for many groups. The next group might very well be the Commissioned salesmen on new and used cars, for example.

One of the problems that I see out of 29 years of experience in making legal charges is this, that when you put a figure in a statute — we used to have the same problem in the old days when we had suggested fee schedules for the Bar, the figure that is in the statutes or in the fee schedule becomes the standard charge, and this means that even though a poor quality performance has been done, or that the work has been done by a lawyer of less ability, perhaps without very much experience in that particular line of work, that the charge is going to be that figure in the statute; whereas, under the traditional method of charging in the legal profession, the matters that are considered are (1) the time involved, (2) the results achieved and (3) the type of problem, the difficulty that it includes in the preparation of the work, the number of years of specialization and experience that go into it. If we are going to set up a system that leads to rather standard charges for everybody, we are not going to leave much opportunity for lesser charges to the poor man, sometimes even no charges to the poor man.

We are sometimes going to cause the poor man to not be able to be represented at all.

I would ask you to keep those things in mind, and to vote yes on this Motion.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate, it disappoints me to have a few of the attorneys in the Body who speak with what you might say is forked tongue. Insofar as the poor man is concerned, the major thrust of this piece of legislation was to take into consideration the rights of the poor man, the rights of the individual citizen, the rights of the people who actually have pain and suffering, and not look at it from a viewpoint of monetary gain so far as the legal profession of the State of Maine is concerned.

I do respect the Senator from Knox, Senator Collins, and his many years of experience, but I think with the two Bills before us this morning proves undoubtedly that there is a serious question pending in the legal profession. If you look at L.D. 844, "An Act to Provide Statutory Procedures for Grievances against Attorneys," it becomes very apparent that there is dissatisfaction among other Legislators and the citizens of the State of Maine. The good Senator, when discussing that particular issue, spoke very clearly that the Maine Bar Association was taking steps, but how many years do we have to wait before they actually finalize their steps before the citizens of the State of Maine really have the proper compensation they deserve through their court peers.

There is justification for this particular Bill. It was not put in arbitrarily and capriciously against the lawyers in the State of Maine. I think it was done with justifiable cause, based upon the fact that under the Maine Tort Acts that this is a brand new ball game, that there will be frivolous suits brought against the municipalities, that these suits sometimes are unjustified, that lawyers being what they are, very logical, usually very intelligent beings, can usually convince very easily the average layman that the answer to his particular problem is to bring a suit in Court, and to wait for an award. But the end result, if you want to take what Senator Collins says, time involved, the results achieved, and the quality of service, we have to assume automatically that these particular factors play a significant value in a decision the lawyer makes when he takes on a particular client, that he is concerned with the welfare of that person, and not necessarily for the monetary compensation.

I would sincerely hope, Mr. President and Members of the Senate, that you allow this Bill to go through its Second Reading, and let it be debated a little further in the other Branch, so that possibly the impact can be fully debated so everybody will have a clear understanding, and maybe the legal profession will have a better understanding of the feelings of the average citizen and layman in the State of Maine.

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

Mr. MERRILL: Mr. President and Members of the Senate, I think that if the attorneys of Maine are not getting a feeling about the opinion of the Maine Legislature, then it is because they are not listening, and I think the feeling that the Maine Legislature is expressing is not necessarily unjustified.

However, there comes a time in the Legislative process where reason has to take control of the process, or hopefully does take control of the process, and feelings at some point are filtered out, so that we may have reasonable responses to truly felt needs. This is not such a response.

First of all, I would point out to the Senate that as concerned as I might be, and as concerned as the previous speaker might be about

the possibility of frivolous suits, that what we are talking about here is contingent fees, and if the suit is frivolous and the action is brought by the attorney on the basis of a contingent fee, contingent fee means that it is contingent upon winning the suit. So if the concern is with frivolous suits, he need not worry because as a matter of fact we ought to encourage contingent fees and not worry about limiting them.

This Bill tries to respond to a general felt concern about the amount of money that attorneys earn, does it in one specific area, and there is no reason to single out that one specific area, and it does it without a great deal of thought going into it.

I suggest to the Senate that if this concern is so great, and if this Senate feels so strongly about it, then maybe we ought to consider in the next Session of this Legislature dealing with this problem in its entirety, set up some big Commission to make decisions about what should be charged, not on the basis of some predetermined percentage, but on the basis of the factors that we all think should be used in deciding how much people should earn.

I also suggest to the Senate that we should not stop with attorneys. We certainly should include doctors. They earn more than attorneys. And the Senator from Knox suggests maybe we ought to consider car salesmen. There are a great deal of people that we can consider, and I suppose before we get done we could consider the butcher and the candlestick maker. There are a lot of people that are making a lot of money in our society, and I suppose some of them are worth it and some of them are not.

This is not a reasonable response to this problem, and it does not become the Senate to pass it at this time. If somebody wants to do the work and set up a Commission to decide how much attorneys can earn, then we can consider that as a reasoned response to a generally felt concern. This is not that response.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate, I can assure the good Senator from Cumberland, Senator Merrill, that reason and logic did prevail when this was analyzed, and I think his previous remarks in a previous debate indicated it was impluse at the time. I can assure the good Senator that there was no impulse or emotions brought into this particular matter at all.

The analogy sometimes can be drawn on this particular Bill and other Bills is malpractice insurance. We are talking a different area altogether, and we are zeroing in only on the Torts area.

Statistics and editorials have come out in the past on \$260 million premiums paid, \$171 million paid in damages and 60 percent of those fees went to lawyers, and 40 percent of them went to their client. I think it is about time we started addressing this particular problem in limiting attorney's fees. We are only talking of one minor area, and if it is worthwhile in this particular area here, then I would advocate going into other areas. Let us go into the medical profession. The end results, the citizens in the State of Maine who pay taxes, or the citizens in the State of Maine who pay insurance premiums are the ones who foot the bill, and I think it is about time we address this problem straight on.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

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

Mr. MINKOWSKY: Mr. President, I would ask for a Roll Call when the vote is taken.

The PRESIDENT: A Roll Call has been re-

quested. 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 Penobscot, Senator Pray.

Mr. PRAY: Mr. President, I move this item lie on the table until later in Today's Session.

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

Mr. SPEERS: Mr. President, I request a Division on the tabling Motion.

The PRESIDENT: A Division has been requested on the tabling Motion.

Will all those Senators in favor of tabling this matter until later in Today's Session, please rise in their places to be counted.

Will all those Senators opposed to tabling this matter until later in Today's Session, please rise in their places to be counted.

4 Senators having voted in the affirmative, and 22 Senators in the negative, the Motion to table until later in Today's Session does not prevail.

The PRESIDENT: The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Jackson, that the Senate reconsider its action whereby it voted to recede and concur with the House with reference to L.D. 826.

A yes vote will be in favor of reconsideration. A no vote will be opposed.

The Secretary will call the Roll.

YEAS — Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Huber, Jackson, Katz, Lovell, Mangan, McNally, Merrill, Morrell, Pierce, Speers, Trotzky, Wyman.

NAYS — Carpenter, Farley, Hewes, Hichens, Levine, Minkowsky, O'Leary, Pray, Snowe.

ABSENT — Danton, Greeley, Martin, Redmond, Usher.

18 Senators having voted in the affirmative, and 9 Senators in the negative, with 5 Senators being absent, the Motion to reconsider does prevail.

The Senate voted to adhere.

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

Mr. MERRILL: Mr. President, having voted on the prevailing side on the Motion to adhere, I would ask the Senate to reconsider and hope you vote against me.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, now moves the Senate reconsider its action whereby it voted to adhere.

The Chair recognizes the Senator from Cumberland, Senator Hewes.

Mr. HEWES: Mr. President and Members of the Senate, I would hope you do reconsider.

If ever fees are going to be established, now is the time. The new Maine Tort Claims Act has just been passed at this Session, and it was passed to benefit the injured employee, not the attorneys.

Now contingent fees were illegal in Maine until 1965. Charges until then were supposed to be on an hourly basis. The good Senator from Knox, Senator Collins, mentions that a standard fee proposed by the Bar Association was often used as a figure to be charged by lawyers. I would point out that that is true, but also some lawyers would use that as a top figure, and would explain to their clients how reasonably they were doing the work and they were charged less than that standard fee.

Now, as I see this Bill, it would allow a fee of 25 percent on any recovery up to \$50,000.00. That is a fee of \$12,500.00, which is a gigantic fee. It then puts a limit of 15 percent on anything above that.

Well, now when you are talking a fee of \$12,500.00, and putting a limit on any recovery

above that, I do not think that is unreasonable law. It would seem to me that something like this is in order.

When I practiced law in Massachusetts, the Workmen's Compensation Board in Massachusetts had a ceiling of 15 percent attorney's fees on all recoveries, not just on those above \$50,000.00. This particular Bill allows a fee of 25 percent on a recovery up to \$50,000.00. 25 percent is not unreasonable. It is not unreasonably high, in my opinion. It seems to me this is a fair Bill, and I hope you will vote to reconsider adhering.

I ask for a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President, I think it is high time that we stop this price fixing. I think we ought to let the law of supply and demand work for itself. If there is so much money for lawyers, and I am sure there is, then why don't we have some more go into law, and soon there will be enough lawyers so that the prices will come down. When we start price fixing on one thing, we will start on another, and I think we are getting way out of our field.

I certainly hope that we drop this right now.

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

Mr. PRAY: Mr. President and Members of the Senate, to answer a question raised by the Senator from Washington, Senator Wyman, as to why there are not more lawyers, I think he should check with the American Bar Association which sets up the requirements for law school and the number of individuals that can attend those schools.

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

Mr. HEWES: Mr. President and Members of the Senate, I hate to belabor this, but just in rebuttal to the comments of the good Senator from Washington, Senator Wyman, we are not talking about regulating the fees of anybody other than the lawyers on this particular issue. It is a new Bill, new law just created by this Session of the Legislature, and this Bill would propose a limit on that particular recovery, a very unique thing, a claim against a governmental entity. Up until now, there has been governmental immunity, sovereign immunity, and this new Maine Tort Claims Act does allow a suit against the State, County, or City, and this particular Bill would attempt to limit the attorney's recovery on that particular claim.

I would just like to say in conclusion, that when it comes to turning to regulate the salaries, fees or wages of any other group, or even lawyers in other claims, let us worry about that particular issue when we come to that particular issue.

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

Mr. MANGAN: Mr. President, I really do not want to belabor the point. I am under the impression that we should kill this thing today, and then next year really start to consider those people who work for the State of Maine in any way, shape, form or manner, and probably at that time we can then regulate the pharmacists who deal with the State of Maine because they are charging too much, the insurance people who insure the State's cars, maybe we can regulate their fees and their commission, since the bulk of their commission comes off the first year anyway. And then we can go after all of the doctors, the Indian chiefs that deal with the State of Maine, we can go after them too; and eventually we can get instructions from Moscow as to how we could finish up the rest of the program.

The PRESIDENT: Is the Senate ready for the question? The pending question before the

Senate is the Motion by the Senator from Cumberland, Senator Merrill, that the Senate reconsider its action whereby it voted to adhere.

A Division has been requested.

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

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

8 Senators having voted in the affirmative, and 19 Senators in the negative, the Motion to reconsider does not prevail.

The President laid before the Senate:

HOUSE REPORTS — from the Committee on Labor — Bill, "An Act Concerning the Payment of Workmen's Compensation Pending an Appeal to the Supreme Judicial Court." (H. P. 281) (L. D. 375) Majority Report — Ought to Pass as Amended by Committee Amendment "A" (H-269); Minority Report — Ought Not to Pass

Tabled — May 17, 1977 by Senator Conley of Cumberland

Pending — Motion of Senator McNally of Hancock to accept the Minority Report

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

Mr. PRAY: Mr. President and Members of the Senate, I realize it is late in the day, and I am going to request a Roll Call on the Motion that is pending, and to respond to a question which the Senator from Kennebec, Senator Speers, stated the other day, which he felt was not answered.

Senator Speers expressed a concern about those people, those individuals who had supposedly been injured on the job, those individuals who, through the Industrial Accident Commission, had had a favorable decision based upon information gathered through hearings which the worker, the employer and the insurance company and their doctors presented all alternative sides of the issue. The concern that he expressed was in those cases in which the insurance company loses the judgment and the commission, with its discretion, decides that an individual can receive payment up until the Court decision. I have checked with the Industrial Accident Commission. This Bill will deal with basically about five or six cases a year.

I think also the Senate should be aware that there is presently within our legal system the means in which the insurance company through the civil process can retrieve any money that it may lose if the Court decision goes the alternative direction.

Thank you.

On Motion of Mr. Conley of Cumberland,
Retabled for One Legislative Day.

The President laid before the Senate:

Bill "An Act to Clarify Vocational Education Reimbursement in Vocational Centers and Vocational Regions" (H. P. 98) (L. D. 122), which was tabled earlier in today's Session by the Senator from Kennebec, Senator Speers, pending passage to be engrossed.

On Motion of Mr. Katz of Kennebec,
Retabled for One Legislative Day,
Pending Passage to be Engrossed.

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

Mr. SPEERS: Mr. President, is the Senate in possession of Resolve Designating Wesseag Marsh at Thomaston as the "R. Waldo Tyler Wilderness Area" (H. P. 1533) (L. D. 1765)?

The PRESIDENT: The Chair would answer the Senator in the affirmative, the Resolve having been held at his request.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I move that the Senate reconsider its action whereby this Bill was passed to be engrossed.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves the Senate reconsider its action whereby L.D. 1765 was passed to be engrossed. Is this the pleasure of the Senate. It is a vote.

On Motion of Mr. Speers of Kennebec,
Tabled for One Legislative Day;
Pending Passage to be Engrossed.

(Off Record Remarks)

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