

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

January 3, 1979 to May 4, 1979

STATE OF MAINE
One Hundred and Ninth Legislature
JOURNAL OF THE SENATE

February 1, 1979

Senate called to Order by the President.

Prayer by Dr. Richard Cleaves, Augusta Memorial Health Institute in Augusta.

Dr. CLEAVES: May we pray. Eternal God, we would ask your blessing upon these men and women, who have been chosen by your people to represent them. As they deal with the issues that are important to all; grant your guidance, that they may dare to walk with their conscience for the welfare of all; grant your blessing upon each one; grant that we may walk with you. Amen.

Reading of the Journal of yesterday.

Papers from the House
Non-concurrent Matter

RESOLVE, Authorizing the Sale of Certain Public Reserved Lands to Cobb's Bosebuck Mountain Camps. (S. P. 85) (L. D. 176)

In the Senate, January 25, Referred to the Committee on State Government and Ordered Printed.

Comes from the House, Referred to the Committee on Energy and Natural Resources, in non-concurrence.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that the Senate Recede and Concur with the House. Is this the pleasure of the Senate?

The motion prevailed.

Joint Order

An Expression of Legislative Sentiment recognizing that: on Sunday, January 28, 1979, David Harrison of Kennebec, Maine, did exhibit great courage and initiative and in doing so did save the life of Scott Carney of Kennebunk Beach, Maine ... (H. P. 200)

Comes from the House, Read and Passed.

Which was Read.

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

Senator FARLEY: Mr. President, Ladies and Gentlemen of the Senate: Perhaps too often these days we hear of the problems associated with our young people. The recent fracas at the Portland Movie Theater, and the vandalism in our schools come immediately to mind.

But today, it's refreshing for me to share with you to the story of a Kennebunk High School Senior, David Harrison, who recently risked his own life to rescue a stranger. While visiting a friend at Kennebunk Beach, David saw two young boys caught on an ice floe which was heading out to sea. Without a thought of his own safety, David ran into the water, where the temperature was estimated to be in the mid-30's. One of the boys managed to escape the swift current, but the other boy had been under water before David reached him. David was able to grab the boy's collar, and swim back to shore. The boy was treated for shock and then released. David Harrison, after a hot shower, simply went back to school.

In spite of all the negative things we hear about teenagers today, it's reassuring to know that young people like David Harrison do exist. It's been a great pleasure for me to speak on this Joint Order, and I enthusiastically move its passage.

Which was Passed, in concurrence.

House Papers

Bill, "An Act to Amend the Duties of the Commissioner of Education Relating to Bilingual Education." (H. P. 182) (L. D. 232)

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

Which was referred to the Committee on Education and Ordered Printed, in concurrence.

Bill, "An Act to Make the Attorney General's Explanations of Proposed Constitutional Amendments and Statewide Referendum more Available to the Voters." (H. P. 183) (L. D. 235)

Bill, "An Act to Reimburse Municipalities for the Cost of Conducting State Elections." (H. P. 184) (L. D. 236)

Comes from the House, referred to the Committee on Election Laws and Ordered Printed.

Which were referred to the Committee on Election Laws and Ordered Printed, in concurrence.

Bill, "An Act Concerning Raccoon Damage to Crops and Livestock." (H. P. 185) (L. D. 233)

Comes from the House, referred to the Committee on Fisheries and Wildlife and Ordered Printed.

Which was referred to the Committee on Fisheries and Wildlife and Ordered Printed, in concurrence.

Bill, "An Act to Extend Collective Bargaining Rights to County Employees." (H. P. 186) (L. D. 237)

Bill, "An Act to Revise the Occupational Safety and Health Law to Conform with Federal Requirements." (H. P. 187) (L. D. 234)

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

Which were referred to the Committee on Labor and Ordered Printed, in concurrence.

Bill, "An Act to Authorize the Town of Dennyville to Vote on Certain Local Option Questions Concerning the Sale of Liquor." (Emergency) (H. P. 188) (L. D. 238)

Bill, "An Act to Specifically Define what Constitutes a Law Enforcement Officer's Signal to a Motorist to Stop." (H. P. 189) (L. D. 239)

Comes from the House, referred to the Committee on Legal Affairs, and Ordered Printed.

Which were referred to the Committee on Legal Affairs and Ordered Printed, in concurrence.

Bill, "An Act to Provide More Adequate Compensation to Municipal Clerks and Municipalities for Certain Duties Performed for the State." (H. P. 191) (L. D. 240)

Comes from the House, referred to the Committee on Local and County Government and Ordered Printed.

Which was referred to the Committee on Local and County Government and Ordered Printed, in concurrence.

Bill, "An Act to Establish a Two-inch Minimum Size for Soft-shell Clams." (H. P. 192) (L. D. 241)

Comes from the House, referred to the Committee on Marine Resources and Ordered Printed.

Which was referred to the Committee on Marine Resources and Ordered Printed, in concurrence.

Bill, "An Act to Authorize the Public Utilities Commission to Prescribe or Adopt Safety Standards for the Storage and Transportation of Liquefied Petroleum and other Gas by Pipeline." (H. P. 193) (L. D. 242)

Comes from the House, referred to the Committee on Public Utilities and Ordered Printed.

Which was referred to the Committee on Public Utilities and Ordered Printed, in concurrence.

Bill, "An Act to Amend the Laws Relating to the Maine Historic Preservation Commission." (H. P. 194) (L. D. 243)

Bill, "An Act to Require that Heads of State Agencies Report to the State Auditor any Suspected Improper or Illegal Financial Activity in their Agency." (H. P. 195) (L. D. 244)

Bill, "An Act to Permit the State Auditor to

Report Certain Suspected Improper Transactions to the Attorney General's Office." (H. P. 196) (L. D. 245)

Comes from the House, referred to the Committee on State Government and Ordered Printed.

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

RESOLUTION, Proposing an Amendment to the Constitution of Maine Repealing the Offices of Judges of Probate and Registers of Probate as Constitutional Officers. (H. P. 197) (L. D. 246)

Comes from the House, referred to the Committee on State Government and Ordered Printed.

On Motion by Senator Pierce of Kennebec, tabled until later in today's session, pending reference.

Bill, "An Act to Clarify Motor Vehicle Registration and Operator Licensing Requirements of Nonresidents." (H. P. 198) (L. D. 247)

Bill, "An Act Providing Additional Funds to Acquire Land for a Passenger Terminal, Transfer Bridge and a Parking Area for the Casco Bay Ferry Service in Portland and to Provide Funds for their Construction." (H. P. 199) (L. D. 248)

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

Which were referred to the Committee on Transportation and Ordered Printed, in concurrence.

Communications

DEPARTMENT OF EDUCATIONAL AND CULTURAL SERVICES

January 31, 1979

TO: Edwin Pert, Clerk of the House
May Ross, Secretary of the Senate
Otto Siebert, State Budget Office

FROM: H. Sawin Millett, Jr., Commissioner
RE: Recommendation for 1979-1980 Funding Level for Adult Education

Pursuant to the provisions of Title 20, M.R.S.A., Chapter 308A, Section 2385, I am required to certify annually prior to February 1 to the Legislature and to the Bureau of the Budget a recommendation for the funding levels for the various program categories in Adult Education.

Please see the recommendation below:

EDUCATION: ADULT EDUCATION

All Other Category 6300.

1979-1980

Grants to Cities and Towns	
Administration: \$631,107 x 70%	\$ 441,775
Instruction: \$889,718 x 75%	667,289
General Evening	
School and	
Adult Vocational	
Supplies: \$511,273 x 50%	255,636
SUB-TOTAL	\$1,364,700
A.B.E. Match:	13,000
TOTAL	\$1,377,700

Which was Read and Ordered Placed on file.

HEALTH AND INSTITUTIONAL SERVICES COMMITTEE

January 31, 1979

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 38 of the 109th Maine Legislature, the Joint Standing Committee on Health and Institutional Services has had under consideration the nomination of George Zitnay to the position of Commissioner of Mental Health and Corrections.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate of

the 109th 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 3
Representatives 9

NAYS:

Senators 0
Representatives 0

ABSENT:

Rep. Vincent, Portland 1

12 members of the Committee having voted in the affirmative and 0 in the negative, it was the vote of the Committee that the nomination of George Zitnay to the position of Commissioner of Mental Health and Corrections be confirmed.

Sincerely,
BARBARA GILL
Senate Chairman
SANDRA PRESCOTT
House Chairman

Which was Read and Ordered Placed on file.

The PRESIDENT: The Joint Standing Committee on Health and Institutional Services has recommended that the nomination of George Zitnay be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on Health and Institutional Services be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 38 of the 109th Legislature, the vote will be taken by the yeas and nays.

The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: Mr. President, Honorable Members of the Senate.

I cannot allow us to vote on the confirmation of George Zitnay as Commissioner of Mental Health and Corrections without making a few comments.

As many of you know, I have been very closely associated with the Department of Mental Health and Corrections during my tenure as a Legislator and as Chairman of the Health and Institutional Services Committee for three terms, during which time several unfortunate and a few fortunate changes occurred within the Department and with Facilities under the Supervision of the Department.

Chaotic conditions in some of the Institutions which existed during my first two terms as Chairman of the Committee and which were confronted by the Committee when they were granted permission to make a study on the Department in 1973 were gradually changed during the past few years. Institutions and Farm Operations were closed much to the dissatisfaction of the Committee. Even now only 6 years later the need for some of these Institutions has been shown. The Committee's Study Report is still available for anyone interested.

In 1975 as a Member of the Advisory Committee on problems of the mentally retarded, I was asked to consider the nomination of George Zitnay as Superintendent of Pineland Center. His qualifications and past performances in Massachusetts and Connecticut impressed me and the need for proper supervision of Pineland was so great that I wholeheartedly supported hiring him. In one year George Zitnay turned the direction in which Pineland Center had been going, completely around, and it was with mixed emotions that I supported Governor Longley's nomination of Mr. Zitnay as Commissioner of Mental Health and Corrections in 1976. I had hoped that he might continue on a Superintendent of Pineland in order to keep the Institution going in the same direction he had started it on. On the other hand, I knew that he would do an excellent job as Commissioner.

I am very pleased today that he has served as Commissioner, because he has not only capably handled this job, but has made sure that Pineland has had the proper supervision and

services.

His reappointment as Commissioner of Mental Health and Corrections by Governor Brennan proves that the Governor recognizes capabilities and accomplishments over partisan commitments, and I heartily commend him for his decision.

The confirmation of George Zitnay as Commissioner of Mental Health and Corrections will be one of the best moves that you as Senators will make during this Session.

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

Senator PRAY: Mr. President, Members of the Senate: During the 108th Legislature Session, as a Member of the Health and Institutional Services Committee, on numerous occasions, I had an opportunity to confront and deal with the Commissioner. During that time period, and I still am gravely concerned about the directions that the State of Maine will be going, in Corrections, Mental Health and Mental Retardation.

I suppose I have been very critical of the Commissioner in the past. I have doubted the direction in which we were going, but at this time, I believe, in retrospect, it was more a direction from the Executive Branch than it was from the Commissioner himself. I believe that under the direction of the new Governor, Commissioner Zitnay has the ability, to move ahead and take care of the problems we have in Corrections and Mental Health, to enhance that Department to the point, the people in the State of Maine can be proud and not concerned about the Institutions that we have.

I would hope that the Senate would unanimously go along with the Committee recommendation.

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 Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEA — None

NAY — Ault, Carpenter, Chapman, Clark, Collins, Conley, Devoe, Emerson, Farley, Gill, Hichens, Huber, Katz, Lovell, Martin, McBreairey, Minkowsky, Najarian, O'Leary, Perkins, Pierce, Pray, Redmond, Shute, Silverman, Sutton, Teague, Trafton, Trotzky, Usher, Sewall.

ABSENT — Cote, Danton.

No Senators having voted in the affirmative and 31 Senators in the negative, with 2 Senators being Absent and none being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of George Zitnay is confirmed.

Senate Papers

Senator McBreairey of Aroostook, Cosponsor: Senator Carpenter of Aroostook presented, Bill, "An Act to Clarify the Publication of School Records." (S. P. 123)

Which was referred to the Committee on Education and Ordered Printed.

Sent down for concurrence.

Senator Carpenter of Aroostook presented, Bill, "An Act to Allow the Various Counties to Pay on a Biweekly Basis." (S. P. 124)

Senator O'Leary of Oxford presented, Bill, "An Act to Increase the Stipend for the County Law Library at Rumford." (S. P. 126)

The same Senator presented, Bill, "An Act to Increase the Salaries of Certain Oxford County Officials." (S. P. 125)

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

Sent down for concurrence.

Committee Report House Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act Concerning the Crime of Prostitution." (H. P. 65) (L. D. 73)

Reported that the same Ought to Pass.

Signed:

Senator:

TRAFTON of Androscoggin

Representatives:

HOBBINS of Saco
CARRIER of Westbrook
SEWALL of Newcastle
GRAY of Rockland
JOYCE of Portland
LAFFIN of Westbrook
SIMON of Lewiston

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

Signed:

Senators:

COLLINS of Knox
DEVOE of Penobscot

Representatives:

HUGHES of Auburn
SILSBY of Ellsworth
STETSON of Wiscasset

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

Which Reports were Read.

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

Senator COLLINS: Mr. President, I move that the Senate accept the Minority Ought Not to Pass Report of the Committee.

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

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Thank you Mr. President. Mr. President and Members of the Senate: I would ask you to vote against the pending motion so that we might accept the Majority Ought to Pass Report.

Two years ago, this very same issue was before the 108th Legislature. Many of us were members of the body at that time, and I am sure can remember the extensive debate which accompanied this bill, finally ended here in this Senate with the Bill being defeated by one vote.

This morning, I would like to briefly outline some of the reasoning behind the Majority Ought to Pass Report. The question seems to be one of basic fairness.

Could and would Prostitution exist in a vacuum, where there was no supply of patrons? Can one commit the crime of prostitution alone or does one need an accomplice, an individual who will offer the enticement of money for services rendered? It would seem obvious that the act of prostitution must of necessity involve two people. Should they then not face equal guilt and penalties under our Maine law?

The signers of the Majority Ought to Pass Report think that it is now the time to revise our definition of prostitution to accomplish the latter purpose.

During the revision of the Criminal Code it was decided that prostitution would remain a crime, but curiously the code sought retribution from only one involved party. At the same time, however, bribery which seems to be an analogous crime, was accompanied by penalties for both the giver of the bribe and the acceptor of the bribes. We have not achieved this same fair treatment however with the buying and selling of sex.

If the practice of prostitution is not to be discouraged, if prostitution does not involve an exploitation or corruption of both parties that is in the interest of society to prohibit; if prostitution does not offend against public order and decency to a degree that requires the safe-

guards of the criminal law; then the present statutes should be repealed.

In lieu of that option which does not seem to be contained in the minority report before us, I would urge you to make current law fair to all parties involved in prostitution. To vote nay on the pending motion. Thank you.

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

Senator LOVELL: Mr. President and Ladies and Gentlemen of the Senate: We had this bill 2 years ago, and it seems to be something that a Portland Police Officer wants to get through when it is only a Portland Bill. Now this is strictly a Portland Bill and could be covered by an Ordinance in the City of Portland. I have talked to the Senators from Westbrook, Bangor, Waterville, Sanford and myself. We have no prostitution in Sanford. There is no prostitution in Aroostook County. I have spoken to the Senators from all over, and this is a Bill that should, definitely, be a Portland City Ordinance. They could pass it. They have a very smart city council in Portland, and they can pass that ordinance without any trouble and it is a useless law. It does not need to be on the State books.

For example: Here is an article by Lieutenant Dewey Martin of the Portland Police Department, and he states that "in 1977, 70 prostitutes were arrested in Portland, and last year there were only 20 arrests. The prostitutes have gone back to Massachusetts because it is too cold up there in Portland."

"The Maine people are the poorest, in the United States," as you probably read in the paper recently. So consequently, I would move for a Division, to pass this minority report.

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

Senator HICHENS: Mr. President, I am reluctant to disagree with my colleague from York County, but I am sure that there is prostitution in Wells, York and along all of the beach areas during the summer months especially. I made this statement last night at a meeting, I was asked if I was positive. I said no I would not know a prostitute if I saw one. I have never been approached and I have never solicited so I am not aware of what goes on. I have heard of what goes on in our own beach areas, in the summer time. I do not think that this is just a Portland issue. I would not really believe that there are not any prostitutes in the Town of Sanford, either.

I was in Washington, a little while ago and another colleague of mine was there, came into the hotel, said that he had been solicited by several women on the street before he could get back to his hotel and that he had to run for his life. Apparently he is much more attractive than I am, because I walked those same streets in Washington and no one approached me, as I say I did not approach anyone else. So I hope that this motion will be defeated, and I ask for a Roll Call.

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

Senator LOVELL: I would just like to ask the Senator from York, Senator Hichens. We are not talking about Washington, D. C. He is talking about along the beaches. I have a cottage at Moody Beach, have had one for 5 years, and I am very well acquainted with Moody, Wells and Ogunquit, they are not prostitutes there that get paid.

A prostitute has to be paid, down there there isn't any price involved. But we do have, as I think probably you all know Ogunquit, for example, is well known for its homosexuals and lesbians. Now I heard the Homosexual Bill when I was chairman last year of the Committee on Human Resources. A professor from the University of Maine and two experts from Boston come out and definitely said that 10% of the population of the State of Maine, were homosexuals or lesbians. I would not believe him, but that is what he says—they're born that

way. Now as far as prostitution is concerned, Senator Hichens says in Sanford, I do not know I hang around the streets of Sanford a good deal, probably I am getting old; but I certainly haven't been approached by anybody in Sanford that wanted any money for anything. I think that there is a certain amount of sex going on in the State. But actually they are not being paid, prostitution you have to collect, the woman has to collect. I think that in many cases they just are not collecting around here. It is for free.

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

Senator COLLINS: Mr. President, 4 years ago 85% of the adult citizens of Maine were criminals. When the Criminal Law Revision Commission members took a look at those laws which were in existence in our State by virtue of common law or statute, they saw that many of our laws were not being enforced.

For example: Social gambling, blasphemy, lewd and lascivious cohabitation of unmarried adults, fornication, adultery, spitting on the streets, is there more than one person in this room who is not guilty of one of these offenses which were formerly crimes?

After much thought and study, that commission recommended to the Legislature a new Criminal Code. Which emphasized the policy that:

1. We should concentrate the resources of our Criminal Justice System on those activities which caused the most serious damage to persons and to property.

2. That we should leave to other social techniques the less serious problems particularly those offenses against social mores, for which there are no direct or immediate victims.

3. That we should concentrate on those offenses which are enforceable.

The policy which the majority report would have us follow today, the policy espoused by the Senator from Androscoggin, Senator Trafton, is in an entirely different direction from the policy of the Criminal Code. It is one more attempt to legislative morality.

Lieutenant Martin of the Portland Police Department, says that "the passage of this law, creating a new crime, will drive prostitution, underground". There is adequate law already on the books, to drive prostitution off the streets of Portland.

Some of us will remember, that it was not 2 years ago, but 1 year ago, when it was difficult to get Bills before the Legislature. A very powerful and very perceptive member of the Portland City Council, arranged nonetheless for the Police Department representatives of his city to come before the Judiciary Committee and that committee made a special effort to consider Portland's problems.

We discovered at that hearing that the problem was the police department of Portland was reading the law differently than the lawyers over at the Cumberland County Court House.

When the lawyers for the City of Portland Police Department and the lawyer for the prosecution for the county put their heads together, they discovered that there was already law there to take care of street activity.

Let me read to you what we did at that time. We said, "well, if there is some doubt between lawyers about what this means, let's try once more to write it more plainly so that everyone will understand it." So this is what we wrote in Section 851B, saying once more what it means under the terminology Publicly Soliciting Patrons for Prostitution. "Publicly Soliciting Patrons for Prostitution shall include, but not be limited to, an offer made in a public place, to engage in sexual intercourse or a sexual act, as defined in chapter 11 section 251. In return for a pecuniary benefit to be received, by the person making the offer or a third person." A third person obviously is what we call, in the vernacular the pimp.

In all of the testimony that we heard related

to this kind of street activity, sometimes by the pimp, sometimes by the direct practitioner, having written the language as plainly as we know how, we find that the City of Portland Police Department apparently did get a better handle on their problem.

I think that we ought to pay very close attention to the practical result of whatever policy we adopt here. The argument presented by the Senator from Androscoggin, Senator Trafton, is an appealing argument. She talks of fairness, we all believe in fairness.

I ask you: take a hotel, 2 rooms side by side. In one room two unmarried adults, enjoying the night together. In the next room two unmarried adults, they go through exactly the same activities. The only difference is that in one room, as one is leaving, \$20.00 is placed on the dresser. In one room Senator Trafton says, there should be two criminals, in the other room no criminals. Is that perfect fairness?

This is not the only area of activity in our criminal law, or in our regulatory law in other respects, where we treat buyers and sellers differently. For example, marijuana, the buyer who has let's say, an ounce and a half or less. The police find him with the substance he is guilty of a civil violation, he can be fined, but he is not a criminal. The seller, however, who undoubtedly has a greater supply than an ounce and a half, is a criminal. Is treated with harsh penalties, the larger his supply for sale the more likely it is that he will have very harsh criminal penalties including incarceration. We have made the same policy with respect to other scheduled drugs in our criminal law. Historically we have had differing policies between producers and the peddlers of alcohol, and the small consumer, the occasional buyer.

I submit, that as we look at this overall policy, that we can expect this new crime, if this is what we create. As in the City of Chicago, for example to lead to decoys, entrapment, blackmail, extortion, and call-girl rackets, the evils will still be there, but the good citizens of Portland won't see them.

The Senator from Cumberland, Senator Conley, has stood in the moccasin which I wear today. He has valiantly defended the Saturday night drunks, the alcoholics, from police efficiency, because he sees a better long range policy.

I have one more concern that I must share with you. The drafting of Criminal Statutes requires great skill. Suppose a young man who has a close friendship with a young woman, says to her, "if you will move in with me and share my bed and board and body, I will pay for all your food, as well as all the rent, fuel and utilities." In the year 1979, this is not an uncommon situation. It also occurs between persons of the opposite sex who are over 65, and living on Social Security.

As I read the proposed bill, these people with live-in arrangements will become criminals. What sort of selective enforcement, or non-enforcement should we then expect from our already over burdened police? I ask you to vote yes.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate: I certainly appreciate the wisdom expressed by the good Senator from Knox, Senator Collins.

But I have to disagree with him with respect to this piece of Legislation that is before us. The history of what has happened in Portland has been debated in this Chamber for many hours especially in the last session of the legislature.

I know it is a subject we can make a lot of jest upon, we can get our laughs.

The good Senator from York, Senator Lovell, has made reference to the fact that there is no traffic in Portland today. Well there are two

good reasons. One he cited was the fact that the weather. Second, the area from where the traffic is the heaviest, where they operated from, there was recently a fire. It has closed the building down and sort of dislocated the so-called local girls from the scene.

Let me remind you that as the good Senator from Kennebec, Senator Katz, directed my eyes to the window, a few moments ago, to note that the sun is presently shining for the first time in about I guess two weeks. Well the sun is going to be around, it's getting higher and it is going to get warmer, it is going to bring the Ladies of the Evening back in from Boston, it is not just Portland. It may be Portland today, but it will be the nice coastal communities of Camden and Rockland that may be faced with it two years from now.

Now I have some concerns about the children of Portland. I have concern about the elderly of Portland who walk our main streets; who are pestered enough with kids who are purse snatching, who are knocking them down. But I think that when we have to tolerate what we see, on what is perhaps the busiest intersection in the state taking place, then I think that we should make a law that it is as severe as it can be. Yes, I agree with the good Senator from Knox, Senator Collins, we have addressed the problem with respect to the so called third person, the pimp. We have addressed the problem with the young lady of the evening, who is allegedly the prostitute. I think that in all honesty—if we are going to be able to put the real teeth in the law, then we must have equity in the law. The so called Johns should be held as equally responsible for the act as the young lady who has sold her body for the evening.

I think that the good Senator from Kennebec, Senator Katz, as remarked in an interview the other day, is quite a classic one perhaps: "that we have been dealing with this problem for 5,000 year. Perhaps all we need is a little more time, we'll get the answer".

Well, I just believe, with the threat within the law, of some person who is going to get some publicity might give just a little more thought, about engaging in this extracurricular activity on the street corner.

If there is no business in the sense of what is going on now, then maybe they will pack up their bags and head back to greener pastures, perhaps where some people are not concerned about what takes place in their community. I for one hope that the Senate will vote against the pending motion.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin Senator Trafton.

Senator TRAFTON: Thank you, Mr. President. Mr. President and Members of the Senate: I, too, was very interested in the remarks of the Senator from Knox, Senator Collins. I think he speaks very well about the intent of the criminal code and I heartily agree with him.

However, I think in his remarks, he made a fairly convincing argument for the decriminalization of prostitution, if not the legalization of it. He is correct that there are many instances in which we cannot legislate morality. Yet line has already been drawn in this case, because when the criminal code was revised they did not see fit at that time to decriminalize prostitution, or to legalize it; but, in fact they kept it in the criminal code, with criminal penalties for the prostitute.

I think the criminal code also embodies the principal of fairness, and in the very example that the Senator from Knox, Senator Collins used of the two adjacent bedrooms, two people engaging in an act under marriage and two people not, but for pecuniary benefit. Is it fair to have the current law say that one of those individuals is a criminal? We've been asked about the practical effect of this law, and in doing some research on the law, I turned to Wisconsin which recently passed a similar statute to that under consideration before us.

What has happened to Wisconsin? We cannot say for sure that, that is what will happen here, in Maine, but we can, at least, look to it for some direction. Since passage of their law, they have arrested priests, rabies, ministers, doctors, lawyers, school principals, university presidents, businessmen, and so forth. In 95% of the cases, the individual pleads guilty to a lesser charge to avoid the embarrassment of a trial. But in all cases, there have been to repeat offenses. Isn't this what the criminal code is all about? To make the punishment fit the crime, so that we don't have repetition of the crime. Again, I would ask you to use your wisdom and make this law a fair law as it exists, and if it's the wisdom of this body to decriminalize prostitution, we can do that in second reading. Thank you.

The PRESIDENT: A Roll Call has been requested.

Under the Constitution, in order for the Chair to order a Roll Call, it requires the affirmative vote of at least one fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

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

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

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

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Chapman, Collins, Devoe, Emerson, Gill, Huber, Katz, Lovell, McBreairety, O'Leary, Perkins, Pierce, Redmond, Teague, Trotzky, Usher.

NAY — Carpenter, Clark, Conley, Farley, Hichens, Martin, Minkowsky, Najarian, Pray, Shute, Silverman, Sutton, Trafton.

ABSENT — Cote, Danton.

A Roll Call was had.

17 Senators having voted in the affirmative and 13 Senators in the negative, with 2 Senators being Absent, the motion to accept the Ought Not to Pass Report does prevail.

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

Senator LOVELL: Mr. President, having voted on the prevailing side, I now move Reconsideration and I would urge you to vote against my motion.

The PRESIDENT: The Senator from York, Senator Lovell, now moves that the Senate reconsider its action whereby it accepted the Minority Ought Not to Pass Report of the Committee.

Will all those Senators in favor of Reconsideration please say Yes.

Will all those opposed please say No.

A Viva Voce Vote being had.

The Motion to Reconsider does not prevail.

Sent down for concurrence.

Orders of the Day

The Chair would direct the Senate's attention to:

RESOLUTION, Proposing an Amendment to the Constitution of Maine Repealing the Office of Judges of Probate and Registers of Probate as Constitutional Officers. (H. P. 197) (L. D. 246).

Tabled—earlier in today's session, by Senator Pierce of Kennebec

Pending—reference.

On Motion by Senator Katz of Kennebec, referred to the Committee on Judiciary and Ordered Printed, in non-concurrence.

Sent down for concurrence.

Senator Katz of Kennebec, was granted unanimous consent to address the Senate, off the

record.

On Motion by Senator Pierce of Kennebec, Adjourned until 12 o'clock noon tomorrow.