

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Seventh
Legislature*

OF THE

STATE OF MAINE

Volume II

May 21, 1975 to July 2, 1975

Index

KENNEBEC JOURNAL
AUGUSTA, MAINE

What happens if they don't get it in by the 25th? It is the same situation as it is now and I think this type of bill is just not needed, I think it is cluttering up the law books even more.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from South Portland, Mr. Curran, that this Bill and all accompanying papers be indefinitely postponed in non-concurrence. All in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Albert, Ault, Bachrach, Bagley, Bennett, Berry, G. W.; Berry, P. P.; Birt, Blodgett, Bowie, Burns, Bustin, Call, Carey, Carpenter, Carter, Chonko, Churchill, Clark, Connors, Curran, P.; Curran, R.; Curtis, Doak, Dow, Drigotas, Dudley, Durgin, Dyer, Farley, Farnham, Faucher, Fenlason, Finemore, Flanagan, Fraser, Garsoe, Gauthier, Goodwin, H.; Gould, Gray, Greenlaw, Henderson, Hennessey, Hewes, Higgins, Hobbins, Hughes, Hunter, Hutchings, Immonen, Jackson, Jalbert, Joyce, Kauffman, Kelley, Kennedy, Laverty, LeBlanc, Leonard, Lewin, Lewis, Littlefield, Lovell, Lunt, Lynch, MacEachern, MacLeod, Mahany, Martin, A.; Maxwell, McMahan, Mills, Miskavage, Morin, Morton, Nadeau, Palmer, Peakes, Pelosi, Perkins, T.; Peterson, P.; Peterson, T.; Pierce, Raymond, Rideout, Rolde, Rollins, Saunders, Shute, Silverman, Snow, Sprowl, Strout, Stubbs, Susi, Tarr, Teague, Theriault, Tierney, Torrey, Tozier, Truman, Tyndale, Usher, Walker, Webber, Wilfong, Winship.

NAY — Berube, Boudreau, Byers, Connolly, Cooney, Cote, Cox, Davies, DeVane, Goodwin, K.; Hall, Ingegneri, Jacques, Jensen, Kelleher, Laffin, LaPointe, McKernan, Mitchell, Mulkern, Najarian, Norris, Pearson, Perkins, S.; Post, Snowe, Spencer, Twitchell.

ABSENT — Carroll, Dam, Hinds, Kany, Lizotte, Mackel, Martin, R.; McBreaity, Powell, Quinn, Smith, Talbot, Wagner.

Yes, 109; No, 28; Absent, 13.

The SPEAKER: One hundred and nine having voted in the affirmative and twenty-eight in the negative, with thirteen being absent, the motion does prevail.

The Chair recognizes the gentleman from South Portland, Mr. Curran.

Mr. CURRAN: Mr. Speaker, having voted on the prevailing side, I now move we reconsider and hope you vote against me.

The SPEAKER: The gentleman from South Portland, Mr. Curran, having voted on the prevailing side, now moves that we reconsider our action whereby this Bill and all accompanying papers were indefinitely postponed. All in favor of that motion will say yes; those opposed will say no.

A viva voce vote being taken, the motion did not prevail.

(Off Record Remarks)

On request of Mr. Rolde of York, by unanimous consent, unless previous notice was given to the Clerk of the House by some member of his or her intention to move reconsideration, the Clerk was authorized today to send to the Senate, thirty minutes after the House recessed for lunch and also thirty minutes after the House adjourned for the day, all matters passed to be engrossed in concurrence and all matters that required Senate concurrence; and that after such matters

had been so sent to the Senate by the Clerk, no motion to reconsider would be allowed.

On motion of Mr. Rolde of York,
Recessed until two o'clock in the afternoon.

After Recess 2:00 P.M.

The House was called to order by the Speaker.

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

The following Joint Order: (S. P. 555)
WHEREAS, the Legislature, by Senate Paper 391, has created the Joint Select Committee on Jobs; and

WHEREAS, this Joint Select Committee was given the task of examining the effectiveness of the present employment programs of the State, including that conducted under the Comprehensive Employment Training Act of 1974, of establishing priorities for the use of public service jobs under the Comprehensive Employment Training Act and of considering new programs and methods by which the State can respond to the present unemployment problem; and

WHEREAS, it is urgent that the Legislature have the benefit of that committee's report as soon as possible; now, therefore, be it

ORDERED, the House concurring, that the Joint Select Committee on Jobs of the 107th Legislature make its final report to the Legislature no later than Friday, June 13, 1975; and be it further

ORDERED, that the recommendations of that Joint Select Committee be referred to the Legislative Council, which is hereby authorized to take any further action on those recommendations as it deems necessary acting through the Joint Standing Committee on Labor.

Came from the Senate read and passed.
In the House, the Order was read.

Mr. Rolde of York moved this matter be tabled two days pending passage in concurrence.

Mr. Palmer of Nobleboro requested a division on the tabling motion.

The SPEAKER: The pending question is on the motion of the gentleman from York, Mr. Rolde that this matter be tabled two legislative days. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.
35 having voted in the affirmative, 34 having voted in the negative the motion did prevail.

Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-264) and Committee Amendment "B" (S-265) on Bill "An Act Creating the Maine Criminal Code" (S. P. 113) (L. D. 314)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendments "A" (S-264) and "B" (S-265).

In the House, the Report was read and accepted in concurrence, and the Bill read once. Committee Amendment "A" (S-264) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Gauthier.

Mr. GAUTHIER: Mr. Speaker, Ladies and Gentlemen of the House: I am glad to report to you that the Judiciary Committee accepted to the other body a few days ago,

Item 1, which appears on your Supplement 1 of today. This was a Judiciary Committee unanimous report "Ought to Pass," report on the Criminal Code with 67 Committee Amendments. Senator Collins and I, as Co-Chairmen of the Committee, are pleased that the majority work of this session is completed. Our committee held seven public hearings on this bill, also took part in four seminars and many, many work sessions. The committee includes six lawyers and seven lay people with a wide range of opinion and it has taken much hard work to bring out a unanimous report which we believe will represent the thinking of Maine people.

The Criminal Code Commission headed by former Attorney General, Jon Lund, gave us the original bill but we have made several important changes. The committee has held many hearings as I have mentioned, studied the code thoroughly and made 67 committee amendments. We feel we have covered the code and made all changes that can be made as humanly as possible that can be covered. If anyone still feels that they want to offer an amendment, please contact Craig Nelson, Counsel for the Judiciary Committee. I wish to thank you for giving me the chance to bring you these few remarks.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Laffin.

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question to the Chairman of the Judiciary Committee in the respect of the murder part of their work. Is it still or has it been added or is it mandatory life for murder for no parole or parole, if so, how many years?

The SPEAKER: The gentleman from Westbrook, Mr. Laffin, poses a question through the Chair to any member who cares to answer.

The Chair recognizes the gentleman from Sanford, Mr. Gauthier.

Mr. GAUTHIER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to inform Mr. Laffin that when he was debating his bill, not too long ago, it was brought out, probably he had too much work that day he couldn't remember and I don't blame him because he did a good job, I have got to commend him for it. Mr. Hughes from Auburn mentioned and it was brought out here in the House that now it has been brought up that for murder is no less than 20 years, it used to be 12 years but now it can't be less than 20.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to ask a question because several people have talked about this and, incidentally, I went home the other night with one of the gentlemen from the other body who worked on this and he explained the bill to me, but there is something that I couldn't seem to grasp or I have forgotten now, and they have done a very fine job on this thing. My question, however, and the question of some others, is that does this bill, does this restrict itself to Title 17? I would like to ask any member who can give me a straight answer.

The SPEAKER: The gentleman from Lewiston, Mr. Jalbert, poses a question through the Chair to any member of the House who cares to answer.

The Chair recognizes the gentleman from South Portland, Mr. Perkins.

Mr. PERKINS: Mr. Speaker and Members of the House: This pretty much restricts itself to Title 17. I have to say that I believe, that under Title 29, my good friend from Lewiston, Mr. Jalbert, has asked me previously, if this was totally restrictive to Title 17. Primarily it is. However, the so-called traffic offenses come in under Title 29, so that other than for that, the answer is yes.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Joyce.

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I seem to have a problem with the criminal code. I have the problem under legalization of Marijuana. I was somewhat disturbed with the Judiciary Committee that they invited into our city here some apostles of pot from the west coast, from the south, from the large municipal areas.

The State of Oregon recently rewrote their criminal code. The committee was somewhat interested in the Oregon code. They seemed to be interested in the laws in the south and on the west coast. I also had an interest in the criminal codes. I didn't go to the west coast, I didn't go and invite people from down south to come here and tell me how wonderful pot was. I didn't have them come here to tell me of all the studies, and I remind you up until 1961, 1,500 papers had already been published on marijuana and I agree it is a controversial subject. I feel the jury is out, the federal government is making the studies as to whether or not this is dangerous. Studies are being made throughout the world, the jury has not returned. I feel the way the Judiciary Committee completed this bill and submitted it to us for passage, we would by passing this chapter on marijuana, we would establish marijuana the herb of the field, we would say that this was a status symbol for the youth of Maine today. Yes, I have many differences with the apostles of pot but reference to criminal code, you, know, I looked into it, and this green book here gave me some answers to many questions.

I took a ride down 302 and it was only a couple of hours and I picked up the proposed criminal code for the State of Vermont, published January 1975 and it was put into effect this year. Now, Vermont, to my way of thinking, and I am not a world traveler, perhaps some of the puritanical society that we find in Vermont is evident here in the State of Maine. We don't need the west coast philosophy here. I am not up here opposing tourism because when I was in the field, with the pot heads and the users of the soft and the hard drugs, you would go in the homes and take the names of the kids at these parties. Very seldom, in these large parties with both the hard and the soft drugs were they people from Maine. They were from out-of-state. Why do you come here to Maine from Pittsburgh from the south, from out in the west coast? Because your laws are good for us, we are not afraid of them. They will throw us in jail and forget about us if we stay in our home state. Vermont revised their code, and who was the one, Professor Fox, wrote a good code for Vermont, why did he give us the garbage? I had to look through it two times. I see Professor Fox in this book and I went back to the Maine Code. I thought perhaps Fanny Fox wrote the Maine Code. I was awful disturbed with this. You look

around the world, what is this marijuana, there is no authority on it in this country. The medical profession in this country, they always look to the University of Athens and Greece, to get the world authority on marijuana. Dr. C. J. Myris, the professor there said the main dangers of marijuana is to our young people, the tendency to lose interest in ambition and drive. What will be the future of a nation whose young people have no interest in success? Sure, studies in this country, marijuana studies, show abnormal brain waves. They don't know too much about it, they know it takes 15 minutes for it to get into the brain, but they also know that it takes five days to get it out of the brain.

What does the World Health Organization say the effects of marijuana are? One, loss of coordination; two, impairment of judgment and memory; three, confusion and illusion; four, simulates aggressiveness; five, you have distortions of sensation, your vision and your hearing. There have been many studies and we have seen here in connection with this proposed codes how nice this is, how nice marijuana is.

University of North Carolina Medical Center, there is a Dr. McLaughlin down there, he is a professor at their medical college. Listen to what he said about this two years ago. On examining descriptions of cannabis effect, it is clear that most of the phenomena associated with LSD are or can be produced with cannabis. Marijuana, it has been around well over 5,000 years, yet the debate goes on. Legalization, what do you really want? A problem to decide on the President's Commission, they can't agree. France has gone to the United Nations with its problem of marijuana and driving. Who are the experts in the field? Do we look to the Boston University study that was written up in Parade Magazine where we consider the sociology professor let 23 students smoke it in a classroom and then decide whether the effect was bad on them?

I don't know how much marijuana is used in the State of Maine. At one time in the Portland Police Department, when we were doing the greatest business in it, we found out that one-half of that used in the City of Portland was an imitation and please listen to this, we found the substitute, and this is a money making thing, the substitute most generally used is dried-out horse manure. It is put in plastic baggies and it is sold, no problem. The other place we had in Portland a kid who couldn't get a job for the summer, 16 years of age, we found him one night, \$1,600 in his pocket. He was driving through the public park, to see the park department mowing the lawns, picked up the grass in a pillow case and took it home, run it through his grandmother's grinder, went out and sold it, \$1,600 and it wasn't half way through the summer.

I hear a lot of this talk, alcohol versus marijuana. There are 30,000 deaths a year because of alcohol. I contacted Senator William Hathaway on this because he is on the committee that is studying marijuana use and his committee has got an awful lot of evidence, that is not a choice, alcohol or marijuana but to use in conjunction with each other today. I think that perhaps I should have first spoke on marijuana during the budworm bill. Do you know that marijuana is the only plant that has been studied that insects will not go near? Now, if the bugs don't want it, why do we want to give it to our kids?

One time in Maine, they used to make clothing out of it, it was like a burlap type clothing.

I say probably from Governor Longley's words on this particular subject, marijuana, you should really think about it. We are not talking just about a harmless weed. We are talking about our children's brains. Believe me, the brain is not a tinker toy. Please think about it.

In closing I will only say this, that I am not 100 percent against the use of marijuana. I had to change my stand when Margret Meade, the Anthropologist, spoke out in favor of it. Now, I am not going to oppose her for anything and I say this honestly, anything that can do a thing for an 85 year old woman, I would have to be in favor of that part of it.

Thereupon Committee Amendment "A" was adopted in concurrence.

Committee Amendment "B" (S-265) was read by the Clerk.

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

Mr. CAREY: Mr. Speaker and Members of the House: I would ask a question of anyone from the Committee, if the Committee Amendment "B" is the one that deals particularly with marijuana?

The SPEAKER: The gentleman from Waterville, Mr. Carey, poses a question through the Chair to anyone who may answer.

The Chair recognizes the gentleman from South Portland, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the question, yes, Committee Amendment "B" does deal with the section on marijuana.

I listened with interest to Representative Joyce's remarks concerning marijuana and I think he expressed the feeling of the majority of the people in Maine, the majority of the people on the committee, if not all the committee members, as to the general concern for the use of marijuana. I think that none of us like the idea that marijuana may be as prevalent as it is today. However if we went back, perhaps 40 years, we might say the same thing about alcohol. I don't like to equate it with it, however, it happens to be the fact of our culture.

The committee struggled very, very hard as well as the commission that proposed these laws in regard to the question of marijuana, and realistically looked upon it in terms of what is happening in the State of Maine. I would submit to you, ladies and gentlemen, that I know of none and I would ask any of you if you know of any individual who has been convicted of possession of marijuana and been confined as a result of it. The standard fine for the possession of marijuana is \$100 to \$150. It is felt by the committee that, therefore, and the commission, that the laws were not being structured such that they were providing for confinement. Therefore, perhaps we should change the status of the term marijuana and its use from what we call criminal to what is termed civil. I suggest that is a play on words because as it happens. I think that we have, by virtue of this code, made the use of marijuana even more difficult if it can be than it presently is. If you are aware, incidentally, of the law court case that is presently pending, we may well find that all of the convictions for the possession of marijuana will be overturned in the State of Maine just by virtue of a technicality

insofar as that term is defined in law. In any event, what we did, was to increase the fine in terms of the dollar figure that one would be liable to pay from the usual \$100, \$150 to \$200 and in respect to the use of it the marijuana will be confiscated, therefore, it is not as if we accept the fact that the individual is using marijuana and we condone it. And additionally, we have taken away what is normally required in terms of proving one guilty of a crime. We now, no longer, if we pass this code, will require that the state prove beyond a reasonable doubt that the individual was and is guilty of possession of marijuana.

We have, if you will, or changed it to a status of a civil penalty and now it will be required that one prove, merely by a preponderance of the evidence, which can be circumstantial, that one is guilty of possession of marijuana. So, when anybody gets up and speaks about us having decriminalized, legalized marijuana, I suggest and submit, that is not the case whatsoever. It does do this, and if we want to say that it decriminalizes it to this extent, if I am found guilty of possession of marijuana and I trust I will not be, if I am asked on an application whether I have been found guilty of an offense, criminal offense, I can truthfully say that I have not even though there has been a judgment rendered against me by the State of Maine who will prosecute these cases then I have been found guilty and submit myself to paying a penalty of \$200. I do feel and sympathize with Representative Joyce and his remarks. I do think there is a great deal of misunderstanding as to just what this does. I do say that the news media because of the manner in which we look upon the use of marijuana, may have suggested and implanted in the minds of people that we are somehow condoning and somehow making it an open forum for the use of marijuana in the State of Maine by anyone. I again submit that is not the case. I would hope that we would pass, in respect to this matter, the Committee Amendment "B".

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

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: I am really interested in this particular amendment. I have never had to even consider measuring marijuana in ounces and I notice that the penalty becomes a criminal offense after 1½ ounces, it is civil up to 1½ ounces. Maybe somebody when I get done can tell me how many cigarettes you can make out of an ounce and a half of marijuana. If it is, in fact, that large a quantity as I seem to think it might be.

I am trying to figure out who would present civil charges in a case like this. In effect, what the committee seems to have done is taken the marijuana out of the criminal codes and, therefore, taken it away from those very agencies that police its use. Now citizens themselves will be policing it and I am wondering who would be in a position, for instance, to bring civil charges. I would assume that the person bringing the charges would have to pay for all the attorneys and everything in bringing the charges but I am not that familiar with the law in that respect. If because we are not getting fined, we are changing the law, I would suggest it would be a heck of a lot better if we changed the judges so that the judges would read the law as we, in the legislature, intend it to be enforced.

The SPEAKER: The Gentleman from Waterville, Mr. Carey, poses a question through the Chair to anyone who cares to answer.

The Chair recognizes the gentleman from South Portland, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: In respect to the first question, it is my understanding that approximately 30 cigarettes may be made from 1½ ounces of marijuana. It is true that we have provided up to 1½ ounce is the subject of the possession portion of the statute which we are dealing with civilly.

In regard to the question of whether or not the individuals in the State of Maine are going to prosecute in these cases or will be the complainants in these cases. No, they will be no different than they ever were. An individual is, in fact, committing an offense from the standpoint of civil defense against the State of Maine whenever he possesses marijuana, no matter under the present law whether he is doing it in his own home or he is doing it out in public. There is some serious question in regard to whether or not that may be unconstitutional for one to be found guilty of an offense having committed it in his own home because I suggest to you that the state of Alaska this week by a 5 to 0 opinion ruled that one having possession of marijuana in his own residence cannot be found guilty of an offense because it would be unconstitutional as a deprivation of privacy.

However, in regard to the question of what this law does in the State of Maine it makes it no different than it actually is right now. The police officers themselves will be the ones who will be policing it, they will be the ones who will be bringing the complaint in behalf or on behalf of the State of Maine. The only difference is that it will ultimately be decided if the person is found guilty and again, he may be found guilty easier, under this code, than he can under the present law, he will be found guilty and will be subject to the State of Maine in the amount of up to \$200. Anything over and above 1½ ounces, it will be presumed and this is not a part of the law today because I'll say to you, incidentally, I can have what is so-called the brick, I can have nickel bags, I can have any amount and they cannot charge me with having anything or a crime other than possession where under the code, anything over and above 1½ ounces it would have to be presumed, I intend to have it for the purpose of sale. That is a criminal offense carrying a very stiff penalty and I say that we have, in fact, made the law more difficult, more clearer with what really is intended. I think the committee agreed that anything over 1½ ounces, it was more likely that the person had it for purposes for sale and therefore, we should try to take care of that situation.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker and Ladies and Gentlemen of the House: I'd like to follow that up with another question. What is the difference between the ounce and one-half of marijuana and the other line that says "the person who possesses any usable amount of marijuana, what is usable amount of marijuana?" and in the next paragraph, "the furnishing of small amounts of prescription drugs on a casual basis to a friend or relative will fall under Section 12 of the Criminal Code which provides for the dismissal of De minimis

infractions. What are the prescription drugs?"

The SPEAKER: The gentleman from Livermore Falls, Mr. Lynch, has posed a series of questions to any member of the Judiciary Committee who may answer if they so desire.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Hughes.

Mr. HUGHES: Mr. Speaker, Members of the House: I think I caught two questions and if I've missed one, I hope it will be asked again. The first question I believe, was "what is a usable amount of marijuana, what do those terms refer to?" The term 'usable amount' is just about what it sounds like, there is the possible situation for example where one is caught with a pipe in one's possession. If that pipe had chemical tracings within the opening of the pipe which a chemist could indicate that used to be marijuana or tracings from marijuana that would then under one interpretation of the law subject him to a crime of penalty for possession. The Criminal Code Commission suggested the term 'usable amount' which simply means what it sound like, any amount of a sufficient size to be usable to have any drug effect on the body. The other question dealt with a different section of the code as to the question of penalties for furnishing prescription drugs. This was a change the committee made, actually. The Criminal Code Commission proposed that whenever one furnishes to another, a prescription drug without a prescription, now furnishing means to give to one, not for money. We have trafficking which deals with selling, and furnishing which deals with giving, donating, whatever you want to call it. The original draft of the code said that when one gave to someone else a prescription drug, that he would be subject to criminal penalties. We thought that was all right in its main purpose; that is, to deal with people who indiscriminately give strong prescription drugs to people but we also remembered the occasion where members of families, for example, might give something to another member of the family for which they had a prescription, and off the top of my head, my example, was dramamine, which is a prescription drug. You might have a member of your family going on a flight and you might give them a dramamine tablet, so under our new code, he would be guilty of a criminal offense to do that so we added language to indicate that those small personal transactions, among members of families and that kind of thing, would be treated as De minimis which simply means of such an insignificant nature, so as not to be prosecuted. Now those are the answers to two questions. Did I miss one and if so, please feel free to ask it again.

The SPEAKER: The Chair recognizes the gentleman from Houlton, Mr. Carpenter.

Mr. CARPENTER: Mr. Speaker, Ladies and Gentlemen of the House: It wasn't too long ago that I stood here and I posed strongly and worked very hard against the L. D. 4 which would have raised the legal drinking age. I have very strong feelings about this issue we are discussing today from personal experience with people whom I have known and many other things and one thing I have an article in my hand from a Dr. Powellson, who is a private psychiatrist practicing in Berkeley, California. Now I am going to tell you that I feel every bit as strongly as the gentleman from Portland, Mr. Joyce, does and in the same way that Mr. Joyce does. I won't

take up much of your time this afternoon. I am opposed to this amendment. The gentleman from Waterville, Mr. Carey brought up a very good point. The gentleman from Livermore Falls brought up several good points. I think what this amendment does, it muddies the water so that I think very effectively without actually coming out and saying so, very effectively, we are taking any teeth out of law enforcement of personal use of marijuana. I think that's exactly what this amendment does. We start talking about personal use and having more than 1½ ounces and 30 cigarettes worth or whatever, I think the law enforcement people that I know and that I have talked to about this say that they don't know how to go about prosecuting this type of thing.

I oppose the decriminalization, the legalization of marijuana whatever you want to call it for one reason. We have bills in this house dealing with railroads and tax exemptions and you can tell me that if I vote "Yes" then this is going to happen, if I do A, then B will happen. Well, I submit to you that for every one of the people who came here from Oregon or wherever they came from and tell you that this is a good thing to do, that I can find an equally eminent psychologist, psychiatrist, doctor or whatever, to tell you just exactly the opposite. The gentleman whom I mentioned before, Dr. Powellson, this article the name of it is "Marijuana, More Dangerous Than You Know". In the 1960's, he was one of the leading proponents of personal use of marijuana in this country, one of the leading proponents. At this time, he is one of the leading opponents. This is just as the gentleman from Portland, Mr. Joyce said, ladies and gentlemen, the jury is out. We don't know. If you drink alcohol to excess, I can assure you or fairly reasonably assure you, that you probably will suffer physical problems, cirrhosis of the liver, etc., but we don't know. People say, well, we are not legalizing it, and I would correct the gentleman from Portland when he talked about legalization, this is decriminalization. As I said before, I think that what we are doing is that we are taking any teeth or any effectiveness out of any law enforcement attempt at personal use, subsequently. I think we are encouraging in a round about way or at least certainly not discouraging personal use of marijuana in the State of Maine and this is what I am opposed to and I have a lot of people talk to me and say "I don't understand your stand on this and your stand on other things" but it is a personal thing.

I've had friends, I've had a lot of friends in the military whom I saw change, I can't tell you how, because I'm not a doctor, I'm not a psychiatrist, but they did change after prolonged use. I'm not talking about one or two times and now I'm going to sound as though I'm talking about this being a mother's bill. I think if we muddy the waters as far as to enforcement or anything along these lines which I think this amendment does, I think we are encouraging young people.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Hughes.

Mr. HUGHES: Mr. Speaker and Members of the House: I'm afraid there is confusion reigning on the floor. The amendment before us, while it does deal with marijuana is the committee amendment to the whole code, it includes 61 changes to the entire code throughout the spectrum of the code. I don't think that the proponents of this want to defeat that

amendment and all those changes. In fact, what it does in the area of marijuana is stiffen what the code proposes. So, therefore, if you defeated the amendment, you would be voting for more lenient laws on marijuana. What we ought to do I think, if you want to debate marijuana, is accept the unanimous committee report which includes this amendment, this is the omnibus amendment to the whole code, it's the work of the committee on the code and debate marijuana tomorrow in the Second Reader when an amendemnt can be presented which would change the law on marijuana but if you defeat this amendment you are defeating the work of the entire work of the committee for the six months of the session. You are defeating our work on murder, arson, shoplifting, everything else that we've done, so I'm afraid that we really don't have the question before us that the speakers are addressing. Now, there are those concerned that we are trying to legalize marijuana and I guess if that were what was being done I would associate myself with the remarks of the gentleman from Portland, Mr. Joyce, that we don't know enough about marijuana, that the evidence is not in, but what we are proposing to do, changes the penalties, but in no way legalizes it and it leaves on the books the following things as the gentleman from South Portland said. It leaves on the books a fine of up to \$200 which is, as we have also heard, far in excess of the fines that are typically levied now. Secondly, it says that if you possess 1½ ounces or more, not only are you subject to that civil fine, you are subject also of being punished for intent to sell, and that I submit is a rather strong thing to do to presume that someone has marijuana to sell when actually all they do is possess it but the committee thought that would be a useful change, so you are making it a criminal crime to possess more than 1½ ounces. Additionally, in this amendment which we are debating, we propose to make it a juvenile offense in addition to all of these other offenses so that if a juvenile smokes he has in addition to those sanctions he also has the potential for all of the other sanctions which all of the other juvenile courts can impose such as probation, drug abuse programs, and all of those things. Now these are the kinds of things that are in the amendment which is before us. It is the commission report itself which proposed to treat marijuana differently but which never proposed to legalize marijuana and I would give you the appropriate pages so that you might overnight study these references. On page 154 of the code under Section 2383, you will see the Crime of Marijuana listed, you will note also that the fine listed there is \$100. If you consult the committee amendemnt, you will see that that section is amended to have a fine of \$200.

Finally, I would just suggest one thing to us, that this has been a useful exercise to raise these questions, I hope that if someone has an amendment to change something that overnight we ask the committee clerk to prepare that amendment in proper draftsmanship and have it ready for tomorrow in the Second Reading and then let us have the very useful and thoughtful debates necessary on each of these sections which may promote some kind of controversy.

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

Mr. CAREY: MR Speaker, I would like

to pose a parliamentary question to the Chair, please.

The SPEAKER: The gentleman may pose his parliamentary question.

Mr. CAREY: Mr. Speaker, am I correct in my assumption that if we are going to try to save this particular amendment and we want to deal with the section on it on marijuana that this amendment should be tabled at this time without adoption so that the amendment to the amendment might be prepared?

The SPEAKER: The Chair would announce that it has had somewhat a confusing problem since the original bill also deals with the same issue but would also indicate that the amendment does as well. If the amendment is, in fact, adopted, it obviously could be reconsidered tomorrow so the amendment could be offered, it can be offered in either way.

Mr. CAREY: In the matter of reconsideration we might jeopardize ourselves in not being able to reconsider?

The SPEAKER: The Chair would answer that in either case if you have the votes at the time, which time you do it, is not important because tomorrow only a majority vote would be needed for reconsideration.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Gauthier.

Mr. GAUTHIER: I would like to ask the Speaker a question here. I think probably it has to do with the same question that the previous speaker has just asked. Wouldn't it be better to accept the whole code, I mean the amendment at the present time and tomorrow if we have anyone, like I mentioned when I first brought out something about the code here, I would like to read what I said. If anyone still feels that they want to offer an amendment after the code has been accepted, they can contact Frank Nelson, Counsel for the Judiciary Committee and he will help them to do so. I feel that today is the time to accept the Amendment "B" of the whole Criminal Code which is not just marijuana. It's the whole thing, 74 amendments that we put in and tomorrow is the time to make the changes if you want to make them?

The SPEAKER: If the gentleman from Sanford, Mr. Gauthier, has posed a question to the Chair, the Chair would announce that from a personal point of preference it would be better to wait to deal with all amendments at the same time both those the committee amendments and the bill itself which could be done tomorrow and the Chair would further announce that it be the opinion of the Chair that in light of obviously the importance of this bill that whoever has amendments that they go to the committee clerk, Mr. Nelson, and work out the amendments with him prior to taking them down to the legislative research office because of the technicalities that they will have to put them through in order to make sure that they are applicable.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Joyce.

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I think that we are all focused in on this thing now and I think what disturbed me has disturbed many here, that this amendment was used as a vehicle to decriminalize marijuana and I'm awful disturbed that they stuck it in there where Vermont didn't and I can show you paragraph by paragraph in the Vermont code that's identical to the proposed Maine code and I think with that

I can, I did want to answer one question for the gentleman from Waterville and I know Mr. Perkins tried, but he didn't give him the straight answer which I think he is entitled to, 1½ ounces of marijuana, when you go down to Boston, usually in Roxbury, you stand with your hands in your back pocket and they come up and sell you as much as you want, now if you buy 1½ ounces, you bring it usually to Portland. In Portland they go out to the supermarket and they buy a jar of oregano, a package of catnip and some parakeet seed. Now, parakeet seed, as a rule is marijuana seed that has been sterilized, and then they mix it in an ashtray. By the time it gets to Waterville, that 1½ ounce is about 8 ounces, so that when you take 8 ounces, you probably are going to make a couple of hundred joints and these are the ones that will be peddled on the streets of Waterville, so you will probably get a couple of hundred joints out of that 1½ ounces and if the people in Waterville decide they don't want it and they are going to send it on to Bangor, before they do, they would go down and get the oregano, the catnip and the parakeet seed and they'd thin it out again, so that by the time it gets to Bangor, you know, they talk about Maine economy but it's prosperous here and, if in order, Mr. Speaker, I would like to have this moved one day.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Hughes.

Mr. HUGHES: Mr. Speaker Members of the House: Just a couple of comments, first of all, the opinion of the gentleman from Portland that this amendment tries to decriminalize marijuana is just incorrect. The Criminal Code, as presented to us, decriminalized marijuana but what the amendment does is criminalize it above 1½ ounces, make it illegal for juveniles and raises the civil fine for everybody, so it is the code which he is objecting to, not the amendment. Now if he or anyone wants to present an amendment it would simply be this and I am not trying to draft it for him but it would simply add a section to the Criminal Code making it a crime with a prison sentence. It would not be an amendment to the amendment, it would be an amendment to the code so it would be perfectly in order even without reconsideration, I would respectfully suggest.

I think the important thing is to get this amendment through simply because it does all the other things which nobody objects to and tomorrow in the Second Reading at the amendment stage, if the gentleman or anyone else, will talk to the Clerk they will draw up an amendment which will give him the question he wants to debate and then tomorrow we can have a very thoughtful and very useful debate, on the subject but to defeat our changes in murder, arson and shoplifting and everything else simply because you don't like this section is neither necessary nor very useful.

The SPEAKER: The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker: First of all, a parliamentary question.

The SPEAKER: The gentleman may pose his parliamentary inquiry.

Mr. BURNS: Due to the amount of material in L.D. 314, will we still be limited to two times up when we debate it tomorrow?

The SPEAKER: The Chair would answer in the affirmative.

Mr. BURNS: I have two questions at this

time, Number 1 to the Committee: in lieu of the suit that is currently in the courts, has any consideration been given to changing our terminology of marijuana to the chemical name which I believe is tetrahydrocannabinol? Any substance containing that chemical would be illegal or etc. and I have another question off the marijuana subject.

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

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Members of the House: In answer to that question, yes, we've taken care of that problem so that there is no question of its derivative nature, it's possession of marijuana in any nature.

The SPEAKER: The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: One more question, sir, this is on the first page of Amendment "B" and involves the definition of "armed". Has there been any consideration given by the committee to continue our mandatory sentencing which we currently have with anybody convicted of a crime while armed?

The SPEAKER: The gentleman from Anson, Mr. Burns, has posed an additional question through the Chair to anyone who may answer if they so desire.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Perkins.

Mr. PERKINS: Mr. Speaker and Members of the House: In respect to the present status of armed offenses in which a mandatory sentence is provided, the code does not provide for a mandatory type of sentencing as it presently appears in our present law. However, I would say in respect to that, what we have done is provide for a determinative type of sentencing structure under the code as compared to our present minimum-maximum such that, the individual when sentenced, will be sentenced for the given period and there is no minimum standard. We are anticipating it will be much more equal in terms of what people understand, if they are sentenced for a given offense for a given period of time, that is a certain thing. They can only have that changed by subsequent petition to the court to have a reduction. We have done away with the parole status so that they can't, some will be getting out earlier than others. Now we have tried to equalize the justice system so that everybody understands they get sentenced for an offense, the judge has said that is what you're going to do and that is what you have.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Curran.

Mr. CURRAN: Mr. Speaker, Ladies and Gentlemen of the House: I rise to support the process that Rep. Hughes from Auburn is suggesting, that we accept the Committee Amendment "B" and then tomorrow submit our amendments. I have some questions about the section on marijuana. I'm not quite so sure that the answer the good gentleman from South Portland, Mr. Perkins, just gave is correct and I need to talk to somebody about legal definitions. Delta-9 tetrahydrocannabinol can now be produced chemically within a laboratory and does not have any relationship to the plant itself and I'm

wondering if this is really covered in the Criminal Code or whether the THC which is very prevalent in the State of Maine is not going to be covered. The THC, the tetrahydrocannabinol is the hallucinogenic chemical among many chemicals within the plant and that now can be produced artificially in the laboratory and I wonder if that is included. I'm also wondering on the ounce and one-half if that ounce and one-half includes the measurement of the weight of the bird seed that Rep. Joyce has spoken about, does this amendment say pure marijuana, marijuana no matter what it has been stepped up with or cut with, and I might add to the good gentleman from Portland that its not uncommon to add in a portion of horse manure in the process, too.

The SPEAKER: The Chair recognizes the gentleman from Kennebunk, Mr. MacMahon.

Mr. MacMAHON: Mr. Speaker, Members of the House: I would like to reply further to the question asked by the gentleman from Anson, Mr. Burns, I think the code does take into account very definitely, when a crime is committed by a person who is armed as opposed to one who is not and it does that by distinguishing in the different classes usually between Class A, if it's an aggravated offense committed by an armed person, or Class B, if it's not. I call to your attention specifically, Chapter 27 the Section on Robbery. Further, I would call to the attention of the membership on Page 147 and thereafter are listed the various repealers that this code would replace and I would urge you to do, as we, on the committee, have done this evening, look the code over thoroughly and specifically those areas of repeal so that all of us have a definite idea of what this does and what this does not do.

Mr. CAREY of Waterville was granted permission to speak a third time.

Mr. CAREY: Mr. Speaker and Members of the House: Earlier in the day, I asked a parliamentary inquiry on this and it was, basically, for the purpose of amending that particular section of this amendment which deals with the marijuana laws.

I think Mr. Hughes and Mr. Curran are both incorrect, that if you adopt this amendment at this stage, regardless of the other sections that are involved, if you adopt this amendment at this state, then tomorrow we would have to reconsider having adopted this amendment, reopen it and then offer an amendment to the Committee Amendment to deal with the marijuana section. I would say simply that we would be much better off at this point to table this bill pending adoption of Committee Amendment "B" and when amendments can be offered and we won't have to go through this reconsideration business and you can accept those amendments on their own merits, but I would certainly hope that somebody might table this, at least for one day, pending the adoption of Committee Amendment "B" so we can get those amendments ready.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Gould.

Mr. GOULD: Mr. Speaker, I move that this matter be tabled for one legislative day.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Old Town, Mr. Gould, that this matter be tabled for one legislative day pending the adoption of Committee Amendment "B". All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.
64 having voted in the affirmative and 43 having voted in the negative, the motion did prevail.

Six Members of the Committee on Health and Institutional Services on Bill "An Act to Provide the Citizens of the State of Maine with Uniform Quality Pharmaceutical Health Care" (S. P. 345) (L. D. 1146) report in Report "A" that the same "Ought Not to Pass"

Report was signed by the following members:

Mr. BERRY of Androscoggin
— of the Senate.

Mrs. POST of Owls Head
Messrs. CURRAN of South Portland
KENNEDY of Gray
SPROWL of Hope
La POINTE of Portland

— of the House.

Four Members of the same Committee report in Report "B" that the Same "Ought to Pass" as amended by Committee Amendment "B" (S-240).

Report was signed by the following members:

Mrs. LAVERTY of Millinocket
Mrs. MORIN of Old Orchard Beach
Messrs. LOVELL of Sanford
HENNESSEY of West Bath

— of the House.

Two Members of the same Committee report in Report "C" that the Same "Ought to Pass" as amended by Committee Amendment "A" (S-241).

Report was signed by the following members:

Mr. HICHENS of York
— of the Senate.
Mr. GOODWIN of South Berwick

— of the House.

Came from the Senate with Report "B" read and accepted, Committee Amendment "B" read and indefinitely postponed and the Bill passed to be engrossed.

In the House: Reports were read.

On motion of Mr. Goodwin of South Berwick, Report "B" was accepted in concurrence and the Bill read once. Committee Amendment "B" was read by the Clerk and on motion of Mr. Goodwin of South Berwick, the Amendment was indefinitely postponed in concurrence and the Bill assigned for second reading tomorrow.

Majority Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-260) on Bill "An Act Defining the Warranty of Habitability and Providing Remedies Therefor" (S. P. 272) (L. D. 878)

Report was signed by the following members:

Messrs. MERRILL of Cumberland
CLIFFORD of Androscoggin
— of the Senate.

Mrs. MISKAVAGE of Augusta
Messrs. HUGHES of Auburn
SPENCER of Standish
McMAHON of Kennebunk
HENDERSON of Bangor
HOBBINS of Saco
BENNETT of Caribou

— of the House.

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

Report was signed by the following members:

Mr. COLLINS of Knox
— of the Senate.

Messrs. HEWES of Cape Elizabeth
GAUTHIER of Sanford
PERKINS of South Portland
— of the House.

Came from the Senate with the Majority "Ought to Pass" as amended by Committee Amendment "A" (S-260) Report read and accepted and the Bill passed to be engrossed.

In the House: Reports were read.

On motion of Mr. Hobbins of Saco, the Majority "Ought to pass" Report was accepted in concurrence and the Bill read once. Committee Amendment "A" was read by the Clerk and adopted in concurrence and the Bill assigned for second reading tomorrow.

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on RESOLVE, to Provide a Maine Homestead Property Tax Credit (S. P. 406) (L. D. 1290)

Report was signed by the following members:

Messrs. MERRILL of Cumberland
WYMAN of Washington
JACKSON of Cumberland
— of the Senate.

Messrs. SUSI of Pittsfield
TWITCHELL of Norway
DRIGOTAS of Auburn
MAXWELL of Jay
MORTON of Farmington
IMMONEN of West Paris
DAM of Skowhegan
FINEMORE of Bridgewater
MULKERN of Portland

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" in New Draft (S. P. 554) (L. D. 1921) on same Bill.

Report was signed by the following member:

Mr. COX of Brewer

— of the House.

Came from the Senate with the Majority "Ought Not to Pass" Report read and accepted.

In the House: Reports were read.

On motion of Mr. Drigotas of Auburn, the Majority "Ought Not to Pass" Report was accepted in concurrence.

Bill "An Act to Prohibit the Arbitrary Imposition of Certain Fuel Charges by Electric Power Utilities" (S. P. 469) (L. D. 1603) which was passed to be engrossed as amended by Senate Amendment "A" (S-212) in concurrence on May 30 and was enacted in the House on June 4.

Came from the Senate passed to be engrossed as amended by Senate Amendments "A" (S-212) and "B" (S-276) in non-concurrence.

In the House: The House voted to recede and concur.

Bill "An Act Relating to Exemption of the East Auburn Community Unit, Inc., from Property Taxes" (S. P. 482) (L. D. 1613) on which the Majority "Ought Not to Pass" Report of the Committee on Taxation was read and accepted in the House on June 5.

Came from the Senate with that Body having insisted on its former action whereby the Minority "Ought to Pass" Report of the Committee on Taxation was read and accepted and the Bill Passed to be engrossed in non-concurrence.

In the House: On motion of Mr. Drigotas of Auburn, tabled pending further consideration and specially assigned for Wednesday, June 11.

Bill "An Act Relating to Contracts of Teachers with Municipalities" (H. P. 1033) (L. D. 1339) on which the House insisted on its former action whereby the Bill was passed to be engrossed as amended by House Amendment "A" (H-253) as amended by House Amendment "C" (H-300) thereto on June 5.

Came from the Senate with that Body having insisted on its former action whereby the Bill was passed to be engrossed on May 27 and asked for a Committee of Conference.

In the House: On motion of Mr. Carpenter of Houlton, the House voted to insist and join in a Committee of Conference.

Bill "An Act to Change the Participation of Employees in the Classified Service in Political Campaigns" (H. P. 1041) (L. D. 1331) which was passed to be engrossed as amended by Committee Amendment "A" (H-364) as amended by House Amendment "B" (H-478) thereto in the House on May 23.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-364) as amended by Senate Amendment "A" (S-278) thereto in non-concurrence.

In the House: On motion of Mrs. Najarian of Portland, tabled pending further consideration and tomorrow assigned.

Bill "An Act to Institute a Fee System for Hospital, Nursing Home and Boarding Home Licenses to Fund Costs of Licensing" (H. P. 1129) (L. D. 1405) which was passed to be engrossed as amended by Committee Amendment "A" (H-482) and House Amendment "A" (H-509) in concurrence on May 30 and was enacted in the House on June 4.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-482) as amended by Senate Amendment "A" (S-271) thereto in non-concurrence.

In the House: On motion of Mr. Goodwin of South Berwick, the House voted to recede and concur.

Bill "An Act Relating to Forester Registration and Licensing" (H. P. 1329) (L. D. 1412) which was passed to be engrossed as amended by Committee Amendment "A" (H-621) in the House on June 4.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-621) as amended by Senate Amendment "A" (S-266) thereto; and Senate Amendment "A" (S-272) in non-concurrence.

In the House: The House voted to recede and concur.

The following Communication:
State of Maine
one Hundred and Seventh Legislature
Committee on Natural Resources

June 6, 1975

Honorable John L. Martin
Speaker of the House
State House
Augusta, Maine 04330

Dear Speaker Martin:

It is with pleasure that I report to you that the Committee on Natural Resources has completed all business placed before it by the 107th Legislature.

Total Bills Received