

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

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

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: I would move indefinite postponement of House Amendment "A" to Committee Amendment "A". I am not convinced that anyone can prove what a substantial interest is. I would even hope that somebody would have taken out "substantially affected by" out of the Committee Amendment and had just left it "who will be directly affected by," without having to put the word substantial.

We, in the City of Waterville, have been sued on a couple of occasions by several people who deal with the city and, basically, the problem has arisen around the word substantial. We just can't seem to put any good meaning to the word substantial, and this would only muddy the waters.

The SPEAKER: The gentleman from Waterville, Mr. Carey, moves the indefinite postponement of House Amendment "A" to Committee Amendment "A".

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I would rise to support the amendment of the gentleman from Bar Harbor on the basis of my experience in two cases where we were dealing with the word "direct." One of the cases involved the Tamano Oil Spill where I was representing a class of fishermen and all of the hotel owners in Old Orchard Beach who had lost business because the beach at Old Orchard was covered with oil were unable to proceed because their interest in the beach was an indirect interest, the oil interfered with the public use of the beach, but because the hotel owners now derived their livelihood from the use of the beach were not directly interfered with they were not able to participate in the suit, even though their livelihood had been substantially affected. The basis of this ruling is an old Maine case called Smedburg vs. The Moxie Dam Company. Smedburg was a sporting camp owner who had a sporting camp near Moxie Lake but not on the lake. The Moxie Dam Company was raising and lowering the water level and having a serious effect on the fishing and also stranding Smedburg clients in the middle of the lake so that they would have to walk in across the mud to get to shore. Smedburg tried to do something to protect his business and he was unable to because the Moxie Dam Company was interfering with the rights of the public to fish but there was no direct effect on poor old Smedburg and his fishing camp. Even though he lost his business, it was an indirect effect.

I think that the purpose that is trying to be accomplished here with this bill is to keep the ankle nippers out of the DEP proceedings. I think that you could do that by saying that people had to have a substantial interest but without getting into this direct, indirect thing which could hurt our sporting camp owners and our hotels and restaurants.

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

A vote of the House was taken.

21 having voted in the affirmative and 79 having voted in the negative the motion did not prevail.

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

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted in non-concurrence and the Bill assigned for second reading tomorrow.

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

Senate Divided Report — Majority (9) "Ought Not to Pass" — Minority (4) "Ought to Pass" — Committee on Education on Bill "An Act to Establish Job Development, Placement and Follow-up Services in Secondary Schools" (S. P. 476) (L. D. 1609) — In Senate, Passed to be Engrossed, May 15. — In House, Indefinitely Postponed, May 29. — In Senate, Passed to be Engrossed as amended by Senate Amendment "A" (S-252), June 4. — In House, House Receded and Concurred, June 5.

Tabled — June 5, by Mr. Finemore of Bridgewater.

Pending — Motion of Mr. Leonard of Woolwich to Reconsider motion to Recede and Concur.

On motion of Mrs. Najarian of Portland, tabled pending the motion of Mr. Leonard of Woolwich to reconsider receding and concurring and later today assigned.

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

An Act Making Current Service Appropriations from the General Fund for Expenditures of State Government for the Fiscal Year Ending June 30, 1976 and June 30, 1977 (S. P. 546) (L. D. 1909)

Tabled — June 6, by Mr. Smith of Dover-Foxcroft.

Pending — Passage to be Enacted.

On motion of Mr. Smith of Dover-Foxcroft, Retabled pending passage to be enacted and tomorrow assigned.

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

Bill "An Act to Clarify Certain Provisions in the Education Laws" (S. P. 418) (L. D. 1375) (S. "A" S-269 to C. "A" S-196) (S. "A" S-232 and S. "B" S-238)

Tabled — June 9, by Mr. Carey of Waterville.

Pending — Adoption of House Amendment "A" (H-660)

The Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by Senate Amendment "A" thereto and Senate Amendment "A" and Senate Amendment "B" and House Amendment "A" in non-concurrence and sent up for concurrence.

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

Joint Order — Relative to recalling (H. P. 1332) (L. D. 1644) from the Legislative Files to the Senate. (S. P. 558)

Tabled — June 9, by Mr. Rolde of York.

Pending — Passage.

On motion of Mr. Rolde of York, retabled pending passage and tomorrow assigned.

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

An Act Relating to the Expediting of Procedures under the Municipal Employee Labor Relations Board (H. P. 1169) (L. D. 1467) (H. "A" H-636 to C. "A" H-428)

Tabled — June 9, by Mr. Rolde of York.

Pending — Motion of Mr. Garsoe of

Cumberland to Indefinitely Postpone Bill and Accompanying Papers.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: I think I gave you all the reasons yesterday why I felt this bill should be indefinitely postponed. It is entitled "An Act to Expedite the Procedures." It will be an act to foul up the procedures of this body if it is passed in its present form. Again, I would just mention that this action is misdirected. It is directed at the board as being the agent that causes delay in our procedures when actually it is the actions of the participants themselves.

The amendment that finally says that they will only be required to schedule the hearings really is not a device that is going to allow an orderly procedure, it has a tendency to interfere with their recently adopted innovation of prehearing examination and I would hope you would vote for the indefinite postponement of this bill.

The SPEAKER: The Chair recognizes the gentleman from Falmouth, Mr. Snow.

Mr. SNOW: Mr. Speaker, Ladies and Gentlemen of the House: I wonder if the Clerk could read the committee report on this bill.

The committee report was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Falmouth, Mr. Snow.

Mr. SNOW: Mr. Speaker, Ladies and Gentlemen of the House: I was reflecting while driving to Falmouth the other day that I have known Mr. Garsoe longer than any other member of this Legislature. I think I first met him 23 years ago shortly before his retirement from business as a florist. I hate to disagree with him but in this case I would hope that the members of the House would see fit to support the report of the committee.

The SPEAKER: The pending question is on the motion of the gentleman from Cumberland, Mr. Garsoe, to indefinitely postpone this bill and all accompanying papers. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

46 having voted in the affirmative and 64 having voted in the negative the motion did not prevail.

Thereupon the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

Senate Report — "Ought to Pass" as amended by Committee Amendment "A" (S-264) and Committee Amendment "B" (S-265) — Committee on Judiciary on Bill "An Act Creating the Maine Criminal Code" (S. P. 113) (L. D. 314) — In Senate, Passed to be Engrossed as amended, June 6. — In House Committee Amendment "A" (S-264) Adopted, June 9.

Tabled — June 9, by Mr. Gould of Old Town.

Pending — Adoption of Committee Amendment "B" (S-265)

Mr. Davies of Orono offered House Amendment "A" to Committee Amendment "B" and moved its adoption.

House Amendment "A" to Committee Amendment "B" (H-692) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Orono, Mr. Davies.

Mr. DAVIES: Mr. Speaker, Ladies and Gentlemen of the House: The report that you have before you from the Judiciary Committee dealing with the section on marijuana is a copout. We have significant evidence before us, legal and medical, which would indicate that the effects of marijuana are far less significant than alcohol, tobacco, coffee, and a number of other substances that are currently in use here in Maine and elsewhere in the country.

The amendment that you have before you presented by myself would deal with this legal question of legalizing marijuana in the private possession of an individual within his own home. It doesn't deal with it with the situation in the public. I think that's adequately dealt with by the Criminal Code but I think we have significant legal evidence and a strong enough legal case that for this legislature or any other legislative body to deal with the subject of an individual's right of privacy that the recommendations of the Criminal Code in the Judiciary Committee are far too weak.

We had a ruling two weeks ago May 27th from the Supreme Court of the State of Alaska, a summary of their decision finds that there is so little medical evidence that marijuana is harmful that it is unconstitutional for the state to make private use of marijuana illegal. Now there has been a long standing tradition under our Constitution and under our state laws that we have a right of privacy. This is not absolute and I would not argue that it was, but I think the criteria we have to look at is whether the actions or the possessions of an individual in his private domain have got to have significant effect on the health or well-being of society in general before the state can override the right of privacy and I think that since the medical evidence that is coming out more and more frequently pointing to the fact that effects of marijuana are insignificant that it is beyond the state's power to regulate whether or not an individual should possess small amounts, usable amounts of marijuana, for their own personal use within their home.

Now, the amendment that you have before you states "that possession of a usable amount of marijuana, usable amount being less than 1½ ounces as already specified in the Criminal Code, in public, is a civil violation for which a forfeiture of not more than \$200 may be adjudged. What this says is if you get caught in public that you can be found with a civil sentence for a penalty of no more than \$200, but the state will not be able to enter on to your premises, into your home, your castle and have anything to do with whether or not you have a small amount of marijuana. I don't know how you feel about the Constitution and about our Bill of Rights but I feel extremely strong on this subject, there has been much too much infringement of our private rights, of our rights to privacy, by the state and by its various institutions. I think it's time that we called a stop to it.

We frequently talk about local control, individual control, the rights of the individual as opposed to the state. I think this is an issue where the line has got to be drawn. Are you in favor of having the state enter your home and tell you what you can do with your own body when it will have no effect on society in general and according to the scientific results coming from study after study there will be little or no effect on yourself, personally. I think the case is

eminently clear, we have to say that the state has its rights but it does not include infringement on this right of the individual. I would move that you accept this bill and when the vote is taken, I would request the yeas and nays.

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

Mr. CARPENTER: Mr. Speaker, Ladies and Gentlemen of the House: I stood up here yesterday and I stated my point of view on what the code attempts to do which is I guess, essentially, decriminalization of marijuana of personal possession, personal use of marijuana and now we have House Amendment "A", to Committee Amendment "B" which does not discriminate but actually legalizes private use.

I don't think I have to go into a lot of detail about why I feel the way I do and I think the major objection that I have to the amendment that is offered by the gentleman from Orono, Mr. Davies, is that I am not yet convinced that in fact, marijuana is not harmful. We consistently make laws and pass legislation here in the State of Maine and the federal government to protect people when we do not feel that people have the knowledge necessary to protect themselves or something similar to this. For that matter, why don't we start talking about legalizing a lot of other things that we now hold as illegal, legalizing as long as you can do it in your own home and as long as it is not bothering society in general?

I tried to think of some things a few minutes ago, and I am drawing a blank, the only one I can think of would be possession of heroin, perhaps it's being a bit radical, a bit extreme when I mention that, but if I want to use it in my own home and I'm not harming anyone else, what's wrong with that? This is the same argument that we're having put forth here today and I just disagree with the whole concept of it.

I have two amendments here that I hope to propose, at a later time, to the Criminal Code, which I think will solve some of our problems with use of marijuana until we find out for sure just exactly what this substances does.

I disagree strongly with the gentleman from Orono, Mr. Davies. I don't think that our law enforcement officials now are barging into homes and knocking down doors and arresting people who are smoking pot. I don't think so at all, I think we are intelligent enough to know that a lot of this is going on and I certainly don't condone it and I don't think it is right but I would agree with the gentleman from Orono there is certain limits as to how far we can invade someone's privacy. I just don't like the legalization of this substance as far as we know to the point that we know exactly what it does. Now, Mr. Davies speaks of studies, Mr. Davies speaks of scientific evidence that shows that it is no more dangerous than milk and all of the rest of these things, well, I would submit to you, if I had the time and the facilities, I could find equally qualified experts to tell you that it is very dangerous, that it is more dangerous than alcohol, that it is more dangerous than all of the rest of these substances, so at this time Mr. Speaker, I would like to move for the indefinite postponement of House Amendment "A" and would ask for the yeas and nays when the vote is taken.

The SPEAKER: The Chair recognizes

the gentleman from Kennebunkport, Mr. Tyndale.

Mr. TYNDALE: Mr. Speaker and Members of the House: I agree completely with my friend, Mr. Carpenter, from Houlton. It has been proven in medical tests conducted by outstanding men in the country that marijuana does cause damage to the brain and to the body, and to say that it doesn't, would be making a statement so nebulous that isn't worth while trying to prove. The use of marijuana in the home is like comparing it to committing suicide in the home. How far does the Bill of Rights carry you in your own home? Now, at the present time marijuana is declared illegal, the use of marijuana is illegal, therefore, in general statement what you are saying, you can break any law that you wish in your own home. The Bill of Rights never ascertained this posture and never intended it to be so.

I believe that our young people of today have found out, to a large extent that the use of marijuana is a very dangerous habit to form. Number 1, it isn't a question of just marijuana itself, it's what it leads to. The average young person, we'll say, will try marijuana in parties and otherwise, over a period of time, and then finally they do not get a kick out of that, can use stronger drugs. It's the basic principle involved. I think this amendment has far too much latitude to it to even be a part of any bill and I hope that you will indefinitely postpone it.

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

Mr. PERKINS: Mr. Speaker and Members of the House: I would like to indicate my support of the good gentleman from Houlton, Mr. Carpenter, in respect to this particular amendment. There is a great deal of difference between decriminalization and legalization, and I think Mr. Carpenter pointed that out. The committee that considered this particular proposal and I do thank all of those who have come to the committee since the inception of our debate yesterday with proposed amendments and that includes Representative Davies. I think it is fine that everyone that's concerned about this matter at least have some input, however, I think that I speak for many when I say that I am not ready to say that marijuana is not harmful, if used in sufficient quantities, and I am no expert, and again I think that there are experts that will disagree as to the nature of marijuana and as to its effects so that I don't think that we should carte-blanche give it approval by use in the home or outside of the home and under the code provisions it is a subject matter that will be confiscated if found in the home or outside of the home, subject to search and seizure, etc. So I hope you don't support this particular amendment.

I might just add that it would be my opinion that while the State of Alaska has made an indication of it being unconstitutional to control one's private acts within his home, I do not look upon Alaska as being a leader in terms of the court's decisions in the United States, however, it is a great state and it is the only state that has made such a decision and that is appealable to the Supreme Court of the United States.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: I rise in support of the amendment offered by Representative

Davies and opposed to the motion now on the floor. I'd just like to speak briefly and point out a couple of things.

First of all, to rebut one of the arguments that has been presented, the Representative from Kennebunk, Mr. Tyndale said that it has been proven that the use of marijuana leads to the use of hard drugs and that just is not so. The two are not related at all and all the testimony that was available to the committee and other people who have studied the problem and people from first hand experience who know of the question involved will tell you that the two are not related whatsoever. The big question that seems to arise though is whether or not the use of marijuana is medically harmful and if it is or if we suspect that it is then, therefore, we should somehow penalize the person who uses it but the way the law reads now would be that if someone uses marijuana they would be subject not only to a fine but to a possibility of a criminal sentence.

The way the code reads at the moment that we have before us that we are attempting to amend now would remove the criminal penalties for the use of small amounts of marijuana but it would still provide that there would be a fine of up to \$200. That's a penalty and it seems to me that where there is no conclusive evidence that shows that the use of marijuana is medically harmful and I know, not only from personal experience, but from research that I have done, that my opinion would be that the use of marijuana is not medically harmful but it seems to me if there is a doubt in your mind that the way to proceed is not to put a penalty on, if there is a question, then let's remove the penalty until the time comes that someone can show conclusive evidence that the use of marijuana is harmful to the person who uses it and is harmful to society and I would venture to say that there would never be any proof, scientific or medical proof, that will show that, but again that's a personal opinion and it's open to question.

The other point that I'd like to touch on is the question of the decision that was made in Alaska last week or the week before last, when the Supreme Court of Alaska, the state's Supreme Court ruled five to nothing a unanimous decision that the use of marijuana by adults for personal use was constitutionally protected by the right of privacy and I'd just like to read from the conclusion of the argument that they presented, the statement that they presented, "it appears that the use of marijuana as is presently used in the United States today does not constitute a public health problem of any significant dimension. It appears that the effects of marijuana on the individuals are not serious enough to justify wide-spread concern at least as compared with the far more dangerous effects of alcohol, barbiturates and amphetamines." This is from the Supreme Court decision in Alaska.

I would hope that you would give the amendment of Mr. Davies consideration, I don't think that it stands much of a chance but I think that the issue is an important one particularly to many young people across the state who use marijuana and will continue to use marijuana regardless of what this legislature decides and what you are doing is putting those young people in the position of facing a jail sentence for continual use of marijuana or at least a stiff penalty in the way of a fine.

The SPEAKER: The Chair recognizes

the gentleman from Sanford, Mr. Gauthier.

Mr. GAUTHIER: Mr. Speaker and Ladies and Gentlemen of the House: I have to strongly disagree with my friend, Mr. Connolly and I have to agree with the people who have mentioned that marijuana is getting to be found to be a hard drug and a bagdrug.

In Washington, these people who have been on federal commissions that were in the beginning, after making a study, were more or less in favor of marijuana but after further studying what it had done on many people especially women in a family way, what it has done to the children after they have been born, that it may have changed their minds very extensively and most of these doctors are coming out and making statements that the marijuana is getting to be a very bad drug, and I would like to say that on TV last night, I was listening to a program, reporters talking about youngsters who are in the other countries and they were advising those coming out of school at the present time not to forget that when they go the European countries that still the penalties were getting worse and worse because the doctors in those countries are finding that this marijuana is much worse than what they were led to believe in the beginning and to make sure that they didn't go into these foreign countries and break the law because they would have to pay a very extreme penalties.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Ingegneri.

Mr. INGEGNERI: Mr. Speaker and Ladies and Gentlemen of the House: I would like to pose a question to any member of the Judiciary Committee especially a lawyer. If mere possession of marijuana is decriminalized, I would like to know whether there could ever be a search and seizure in someone's home for mere possession?

The SPEAKER: The gentleman from Bangor, Mr. Ingegneri has posed a question through the Chair to any member of the Judiciary Committee. The Chair recognizes the gentleman from Auburn, Mr. Hughes.

Mr. HUGHES: Mr. Speaker, that's a question which we, on the Committee did address. The substance is still declared specifically and logically contraband and that would permit the invocation of the search and seizure provisions, so yes, there could be search and seizure which might, indeed, lead to convictions of possession of other drugs more serious than marijuana.

Mr. Carpenter of Houlton requested a roll call.

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

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

The SPEAKER: The pending question before the House is the indefinite postponement motion of the gentleman from Houlton, Mr. Carpenter, of House Amendment "A" to Committee Amendment "B". Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Albert, Ault, Bagley, Bennett,

Berry, G. W.; Berry, P. P.; Berube, Birt, Blodgett, Boudreau, Bowie, Burns, Bustin, Call, Carey, Carpenter, Carroll, Carter, Chonko, Churchill, Clark, Conners, Cooney, Cote, Curran, P.; Curran, R.; Curtis, DeVane, Doak, Dow, Drigotas, Durgin, Dyer, Farnham, Faucher, Fenlason, Finemore, Flanagan, Garsoe, Gauthier, Goodwin, K.; Gould, Gray, Greenlaw, Hall, Hennessey, Hewes, Higgins, Hinds, Hobbins, Hughes, Hunter, Hutchings, Immonen, Jackson, Jalbert, Joyce, Kany, Kelleher, Kelley, Kennedy, Laffin, Laverty, LeBlanc, Leonard, Lewin, Lewis, Littlefield, Lovell, Lund, Lynch, MacEachern, Mackel, MacLeod, Mahany, Martin, A.; Martin, R.; Maxwell, McBreairty, McMahan, Miskavage, Mitchell, Morin, Nadeau, Najarian, Palmer, Peakes, Pearson, Pelosi, Perkins, S.; Perkins, T.; Peterson, P.; Peterson, T.; Pierce, Post, Powell, Quinn, Raymond, Rideout, Rolde, Rollins, Saunders, Shute, Silverman, Smith, Snowe, Spencer, Sprowl, Strout, Stubbs, Teague, Theriault, Tierney, Torrey, Truman, Twitchell, Tyndale, Usher, Walker, Wilfong, Winship.

NAY — Bachrach, Byers, Connolly, Cox, Davies, Ingegneri, McKernan, Norris, Snow, Talbot, Tozier.

ABSENT — Dam, Farley, Fraser, Henderson, Jacques, Jensen, Kauffman, LaPointe, Lizotte, Mills, Morton, Mulkern, Susi, Wagner, Webber.

Yes, 122; No, 11; Absent, 18.

The SPEAKER: One hundred and twenty-two having voted in the affirmative and eleven in the negative, with eighteen being absent, the motion to indefinitely postpone does prevail.

Mr. Joyce of Portland offered House Amendment "B" to Committee Amendment "B" and moved its adoption.

House Amendment "B" to Committee Amendment "B" (H-696) was read by the Clerk.

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

Mr. JOYCE: Mr. Speaker and Members of the House: I will speak to the motion and then ask for a roll call on passage. The purpose of this amendment is to delete the provisions of Committee Amendment "B" to the Criminal Code, the section providing for civil penalties for the possession and for usable amounts of marijuana, to also delete the section providing the presumption of unlawful furnishing a scheduled drug, if a person possesses more than 1½ ounces of marijuana. Much has been said on the Alaska case here and I think we have just got to take a look at our Constitution and see that the police powers granted in there, the police powers run to the welfare of the people. Certainly in this session of the legislature no one rose in here to question our rights, to require lights on motorcycles and who would be the one hurt? I've read several times, the Alaska case, and I don't think it has very good standing here. Very clearly, the evidence has shown that marijuana is a dangerous drug.

Also referred to was the Georgia case on pornography, how can you ever match the two up? An individual goes in his room, closes and locks the door and looks at some pornographic literature, another individual goes in and he smokes pot, Mary Jane or whatever you want to call it, it's known by 150 names in the English speaking language, go in there and smoke it, it's out on the road, is it a concern of yours? We each take that long ride home every week, certainly you're interested in

the car or motorcycle coming at you, that the person driving that is not a pothead, he's not tripping out and medical science has not mentioned here several times on this bill, but you know, no way, can they test a person being under the influence of marijuana. They do pretty much agree that 15 minutes after smoking a joint that moves into the brain, there's evidence of that, evidence that it stays in there, in the brain for five days. Some studies claim that it only stays in there for one day but they pretty much agree with this and I am not going to make this a long appeal. I think I said enough yesterday and I just hope that you will support my House Amendment "B" to Committee Amendment "B".

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

Mr. HUGHES: Mr. Speaker, there is being distributed at this point, a chart which members of the committee had prepared because I think we are going to get kind of confused in the next half hour or whatever this takes. There are, coming before us, five different proposed ways of treating marijuana possession and this chart which I have presented is a quick job of trying to put into laymen's language what each of those five proposed treatments does so that when you take the votes on each of the amendments, we will be able to tell just what we are voting on and it does get confusing.

(At this point, due to a defective tape, some remarks were not able to be transcribed.)

Mr. Carpenter of Houlton moved the indefinite postponement of House Amendment "B" to Committee Amendment "B".

Mr. Shute of Stockton Springs requested a roll call vote on the motion.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

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

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

ROLL CALL

YEA — Albert, Ault, Bachrach, Bagley, Bennett, Berry, P. P.; Berube, Birt, Boudreau, Burns, Bustin, Byers, Call, Carey, Carpenter, Carroll, Carter, Chonko, Clark, Connors, Connolly, Cooney, Cote, Cox, Curran, P.; Curtis, Dam, Davies, DeVane, Doak, Dow, Drigotas, Durgin, Farley, Farnham, Faucher, Finemore, Fraser, Garsoe, Gauthier, Goodwin, H.; Goodwin, K.; Gould, Greenlaw, Hall, Hennessey, Hewes, Higgins, Hinds, Hobbins, Hughes, Hunter, Immonen, Ingegneri, Jackson, Jalbert, Kany, Kelleher, Kelley, Kennedy, Laverty, Lewis, Lovell, Lunt, MacEachern, MacLeod, Mahany, Martin, A.; Martin, R.; Maxwell, McBreairty, McKernan, McMahon, Miskavage, Mitchell, Morton, Nadeau, Najarian, Norris, Palmer, Peakes, Pelosi, Perkins, S.; Peterson, P.; Peterson, T.; Pierce, Post, Quinn, Raymond, Rolde, Saunders, Smith.

Snow, Snowe, Spencer, Sprowl, Strout, Susi, Talbot, Tarr, Teague, Tierney, Tozier, Truman, Twitchell, Tyndale, Usher, Walker, Wilfong, Winship.

NAY — Berry, G. W.; Blodgett, Bowie, Fenlason, Flanagan, Gray, Joyce, Laffin, Leonard, Lewis, Lynch, Shute, Silverman, Stubbs, Theriault, Torrey.

ABSENT — Churchill, Curran, R.; Dudley, Dyer, Henderson, Hutchings, Jacques, Jensen, LaPointe, Lizotte, Mackel, Mills, Mulkern, Powell, Wagner, Webber.

Yes, 118; No, 16; Absent, 16.

The SPEAKER: One hundred and eighteen having voted in the affirmative and sixteen having voted in the negative, with sixteen being absent, the motion does prevail.

Mr. Carpenter of Houlton offered House Amendment "C" to Committee Amendment "B" and moved its adoption.

House Amendment "C" to Committee Amendment "B" (H-697) was read by the Clerk.

Mr. Gauthier of Sanford moved the indefinite postponement of House Amendment "C" to Committee Amendment "B".

Mr. Carpenter of Houlton requested a roll call vote on the motion.

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

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

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

ROLL CALL

YEA — Bachrach, Bagley, Bennett, Berry, P. P.; Birt, Bustin, Byers, Chonko, Churchill, Clark, Connolly, Cooney, Cote, Cox, Curran, P.; Curtis, Dam, Davies, DeVane, Dow, Drigotas, Farnham, Faucher, Fenlason, Finemore, Garsoe, Gauthier, Goodwin, H.; Goodwin, K.; Greenlaw, Hall, Hennessey, Hewes, Hobbins, Hughes, Immonen, Ingegneri, Jackson, Jalbert, Kany, Kelleher, Kennedy, Laverty, Lewis, Lovell, Lunt, MacLeod, Maxwell, McBreairty, McKernan, McMahon, Miskavage, Mitchell, Morton, Nadeau, Najarian, Norris, Palmer, Peakes, Pelosi, Perkins, S.; Peterson, P.; Peterson, T.; Pierce, Post, Powell, Quinn, Raymond, Rolde, Saunders, Smith, Snow, Snowe, Spencer, Sprowl, Talbot, Tarr, Teague, Tierney, Tozier, Truman, Tyndale, Usher, Walker, Wilfong, Winship, The Speaker.

NAY — Albert, Ault, Berry, G. W.; Berube, Blodgett, Boudreau, Bowie, Burns, Call, Carey, Carpenter, Carroll, Carter, Connors, Curran, R.; Doak, Durgin, Dyer, Flanagan, Fraser, Gould, Gray, Higgins, Hinds, Hunter, Joyce, Kauffman, Kelley, Laffin, Leonard, Lewin, Littlefield, Lynch, MacEachern, Martin, A.; Martin, R.; Morin, Pearson, Perkins, T.; Rideout, Rollins, Shute, Silverman, Strout, Stubbs, Theriault, Torrey, Twitchell.

ABSENT — Dudley, Farley, Henderson, Hutchings, Jacques, Jensen, LaPointe, LeBlanc, Lizotte, Mackel, Mahany, Mills, Mulkern, Susi, Wagner, Webber.

Yes, 87; No, 48; Absent, 16.

The SPEAKER: Eighty-seven having voted in the affirmative and forty-eight in the negative, with sixteen being absent, the motion does prevail.

Thereupon, Committee Amendment "B" was adopted.

Under suspension of the rules, the Bill was read the second time.

Mr. Laffin of Westbrook offered House Amendment "C" and moved its adoption.

House Amendment "C" (H-689) was read by the Clerk.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: Sometime ago, we talked about capital punishment here and we didn't get very far and much was said on the fact that well, we would just as soon put them into prison but we don't want to take anyone's lives. So today I am going to give you a chance on that, and I know there are many in this House, if they had a chance, they would vote for capital punishment, so in order for you to correct your mistake that you made a couple of weeks ago, I am going to give you a chance now to rectify that.

I present this amendment and the amendment is very simple. The amendment asks that if a person commits murder in the line of a police officer, that a woman is raped and murdered, that a child under 16 is molested and murdered, the amendment is asking for life imprisonment with no possible parole. If a 21-year-old man does it, he is there until he dies. If a 50-year-old man does he is there until he dies.

There was much said on the floor of this House during the debate of capital punishment, so consequently, one of the statements that was made on the floor of this House was the fact that they go along wholeheartedly, it would be a greater crime to kill the person who did it than would be to let them serve X-number of years in jail. Therefore, ladies and gentlemen, we have that choice back here today. Those who do not want to take a life, don't have to, that is gone and forgotten. Now we have a chance to put man or woman, who commits these vicious crimes, to incarceration for life with no chance of parole.

Now, you know in the days we are living here, there are going to be — and we know that, even though one member of this House got up and said he knew that there would be no murders of police officers, which is in the statement on page B1-1B 423, I believe, of the Horse Blanket, I do not agree with that because I don't know. We hope that there never will be another murder in this state, but I hope that the sun shines all winter too.

So consequently, ladies and gentlemen, this is a chance to protect law enforcement officials, not as good as I would like to have it, but it is a protection. It is in some sense a form of deterrent to crime, not a major one, because when 11 Attorneys General throughout this country speak to me in a letter that capital punishment is a deterrent and when a member of this House gets up and says, no, he would disagree with them because he is a lawyer, that is very debatable. I certainly would take the word of people who are involved with this type of people, handling them day in and day out.

Rape and murder is a very serious, very vicious crime. I am sure that many times a lot of people have said to me, oh, don't speak about certain things, we don't want

to hear that on the floor of the House, don't talk about this and don't talk about that. There are many things we don't like to talk about but unfortunately, we are living in a real true world, we do not live in a make-believe world, and life is as it is, not as we want it or not as we would like to have it. Consequently, these vicious crimes do exist and nobody, and I repeat, nobody, can say that they don't. We hope that they won't, we certainly do but the vicious crimes of murder and rape which breaks a woman's dignity is not equality in justice when a man will walk the streets in twelve years. Equality is for everyone, regardless of whether they are for a woman, whether they are black, whether they are white, or whether they are Indian, just as equality serves, all colors. Therefore, if we are to live in the society which we are to live in, we must make the rules for the majority of the people, not for murderers, rapists and cop killers. There is no place in our society today for these types of people.

What is portrayed as a sinister force is nothing more than citizens of every walk of life acting to preserve a right, and we certainly have that right. There are many who feel that you do not have a right to take a life, you are not taking a life, they took their own life when they committed this vicious crime. There are many who will say before us today that certain people should not be singled out as murderers, rapists, child molesters, they they are being discriminated against. Well, I say that that is the greatest discrimination that this member of this House could ever enact and I am all for it one hundred percent. There are those who say that we do not have the right to make a harsh law for the harsh crime. I say to you, we do have that right. We have the right to protect the people of this state, the innocent who have been treated unduly wrong by members of previous legislatures when they will enact laws that only protect the guilty.

There is no rule or law in the world that could ever equal murder and rape. The barbaric crime should fit the barbaric person. We are not discussing capital punishment, we are discussing people who the members of this House feel should live. I don't feel that way. They should live, so then let's let them live in prison and let's let them see if this will deter crime as one member of this House said.

One person said to me, it is cruel and unusual punishment, well, I have heard that on the floor of the House and I know where they got it from and I don't agree with them. What I say to you is cruel and unusual punishment for the woman who has been raped and murdered to leave her family home, her children, her loved ones. I received a letter from a woman in Portland who eleven years ago was raped who never breathed a word of it, it ruined her home, it turned her love and marriage into a divorce because of the vicious crime that was committed. Her children left her. These are facts, they are not things that we say to you, yes, we would like to have this as such and we live in a fairyland state, well we don't. We live in a vicious time when murderers and rapists do exist.

I urge you, ladies and gentlemen, to support my amendment. I urge you because I know that the Supreme Court this fall will rule that the states and the state legislatures have the right to rule and govern their people and, therefore, I am confident that they will rule the death penalty as constitutional and when this

same body can rule that children saying the Lord's prayer in school is unconstitutional, that is a joke, if there ever was one. I urge you to correct the mistakes that we made a few weeks ago. We have a chance again and you will have a chance again, maybe next year or the year after, but let's correct it now and let's put these people where they belong. In your minds and in my mind, let's send them to state prison and never have a parole.

The SPEAKER: The pending question before the House is adoption of House Amendment "C". The Chair will order a division. If you are favor, you will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Spencer of Standish requested a roll call.

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

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

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

Mr. HUGHES: Mr. Speaker, Ladies and Gentlemen of the House: You might be interested in what the code does provide for the crimes that are listed by Mr. Laffin. I think I must agree with most of the things he said today. I am against the death penalty and I voted against it, but I do think for the crimes he mentioned and for certain other homicides in the first degree, I would favor life imprisonment.

If you will look on Page 140 of your Criminal Code, you will see the penalty for criminal homicide in the first degree and it reads: "A person convicted of criminal homicide in the first degree shall be sentenced to life imprisonment." Now, under our present law, life imprisonment does not mean life imprisonment. Under the present law, we have what is called parole and one serving a life sentence is eligible for parole at the end of 12 years. The present parole board has a policy of granting paroles to virtually every person that comes up and on the first time they come up, so the effective sentence under our present law for this kind of crime is 12 years. I don't like that and neither does the committee.

This proposal will provide a life sentence with no parole; there is no parole for any criminal offense in this code. We are abolishing the parole board and the whole system of parole, so they would get a life sentence and they would have to serve that life sentence with one difference from the proposal of Mr. Laffin, that difference is that after he served 15 years of his life sentence, he may petition the court to change his sentence. He would have to go back to the court, not to any parole board, and there may possibly be the case, everyone knows the Birdman of Alcatraz story where some model prisoner, having served a long term and by that time getting pretty old, is worthy of some sort of shorter sentence, but unless the court changes that sentence, he is serving a life sentence until he dies. So there is not much difference, the difference is, as I see it, that your criminal code division committee, which had people from the State Police, from the local police, from the Attorney General's Office, from virtually everybody in law enforcement and your Judiciary Committee thinks

that there ought to be that one tiny bit of flexibility and it is an awfully small one. We are in agreement that kind of offense ought to be treated very severely and this code does it and the present law does not.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: Just to add what has been said by Mr. Hughes, I would also point out that there is another amendment on this section of the code that would increase the minimums for these crimes so that the person would have, I believe, it is 25 years and I think that. . . .

The SPEAKER: Would the gentleman defer, please? The gentleman from Westbrook has posed, in fact, a true point. Would the gentleman kindly restrict his remarks to the present amendment?

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I think that the issue presented narrowly right here is whether if somebody does commit these crimes and they obviously are heinous crimes and they ought to be severely punished. Does the House want to eliminate any possibility that under any circumstances these persons might be released from prison? I recall a newspaper article about a man from Chicago who was involved in the Leopold Lowe murder in the 1930's which was as heinous a crime as one can imagine and a few years ago, he was released from prison. He was in his 70's and he was going to South America to work as an electrician in, I forget, whether it was a nursing home or a monastery or what it was, but he was clearly no threat to society. He had virtually served all of his adult life in prison and at the end of his sentence, he was released to go and do what humanitarian work in his 70's and I think that there are situations where a person who at age 19, 20 or 25 or whatever does commit such a heinous crime and yet, to say that the person is going to die in prison, still runs against notions of fundamental justice and I would urge you to defeat the proposed amendment and will not speak to the other amendment which is coming.

The SPEAKER: A roll call has been ordered. The pending question before the House is the adoption of House Amendment "C". Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Albert, Ault, Berry, G. W.; Boudreau, Bowie, Burns, Byers, Call, Carey, Carroll, Carter, Connors, Curtis, Dam, Doak, Durgin, Dyer, Faucher, Fenlason, Flanagan, Garsoe, Gould, Hinds, Hunter, Immonen, Jackson, Joyce, Kauffman, Kelley, Laffin, Leonard, Lewin, Lewis, Littlefield, Lovell, MacEachern, Maxwell, McMahan, Morin, Morton, Norris, Perkins, T.; Rideout, Rollins, Shute, Silverman, Strout, Stubbs, Susi, Teague, Theriault, Torrey, Tozier, Usher, Wilfong, Winship.

NAY — Bachrach, Bagley, Bennett, Berry, P. P.; Berube, Blodgett, Bustin, Chonko, Churchill, Clark, Connolly, Cooney, Cote, Cox, Curran, P.; Curran, R.; Davies, DeVane, Dow, Drigotas, Farnham, Finemore, Fraser, Gauthier, Goodwin, H.; Goodwin, K.; Gray, Greenlaw, Hall, Hennessey, Hewes, Higgins, Hobbins, Hughes, Ingegneri, Jalbert, Kany, Kelleher, Kennedy, Laverty, Lunt, MacLeod, Mahany, Martin, A.; Martin, R.; McBrearty, McKernan, Miskavage, Mitchell, Nadeau, Najarian, Palmer, Peakes, Pearson,

Pelosi, Perkins, S.; Peterson, P.; Peterson, T., Pierce, Powell, Raymond, Rolde, Saunders, Snow, Snowe, Spencer, Sprowl, Talbot, Tarr, Tierney, Truman, Twitchell, Tyndle, Walker, The Speaker.

ABSENT — Birt, Carpenter, Dudley, Farley, Henderson, Hutchings, Jacques, Jensen, LaPointe, LeBlanc, Lizotte, Lynch, Mackel, Mills, Mulhern, Post, Quinn, Smith, Wagner, Webber.

Yes, 56; No, 75; Absent, 20.

The SPEAKER: Fifty-six having voted in the affirmative and seventy-five in the negative, with twenty being absent, the motion does not prevail.

Mr. McMahon of Kennebunk offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-688) was read by the Clerk.

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

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: I believe that this is the last amendment to be considered. I would point out at the outset that I am a member of the Judiciary Committee and this amendment in no way indicates my dissatisfaction with the criminal code. The vote on that code was a unanimous one and mine was as unanimous as the rest of the committee.

The amendment, however, I am offering, to give you an opportunity to vote on a moderate measure which will express the sense of this legislature that murder in the first or second degree should result in a minimum sentence sufficient to express society's concern over these two crimes. The amendment retains the "good time" provision in both the criminal code and the present law, but only insures that anyone convicted for these two offenses will serve a minimum sentence before being able to petition the court for a review, reduction and possible elimination of their sentences.

For your information, further I would call your attention to Page 142 of the Criminal Code, Section 1254, Subsection 2, and this is the only part of the criminal code that I seek to amend with this amendment. The amendment does not do anything other than what it says it does, there are no hidden intentions behind it. If you believe that crimes of murder in the first degree and murder in the second degree are sufficiently important to warrant a minimum sentence of 25 years in the case of murder in the first degree or four-fifths of the definite sentence in the case of murder in the second degree, then I urge you to support this amendment.

Thereupon, House Amendment "B" was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A", Committee Amendment "B" and House Amendment "B" in non-concurrence and sent up for concurrence.

By unanimous consent, ordered sent forthwith.

Mr. Jalbert was granted unanimous consent to address the House.

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I think we have just witnessed what unity can do. I think that the Judiciary Committee, House Chaired by the gentleman from Sanford, Mr. Gauthier, and the entire committee should be commended for the fine work that they have done on this bill and the way they have handled the situation all around. (Applause)

The SPEAKER: The Chair agrees.

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

Bill "An Act to Change the Participation of Employees in the Classified Service in Political Campaigns" (H. P. 1041) (L. D. 1331) — In House, Passed to be Engrossed as amended by Committee Amendment "A" (H-364) as amended by House Amendment "B" (H-478) thereto, May 23.

— In 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.

Tabled — June 9, by Mrs. Najarian of Portland.

Pending — Further Consideration.

On motion of Mr. Stubbs of Hallowell, the House voted to recede and concur.

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

An Act to Enable the Department of Health and Welfare to Conduct a Program to Provide Free Drugs to Elderly, Disadvantaged Maine Citizens" (H. P. 1413) (L. D. 1683) (C. "A" H-472)

Tabled — June 9, by Mr. Kelleher of Bangor.

Pending — Passage to be Enacted.

On motion of Mr. Kelleher, under suspension of the rules, the House voted to reconsider its action whereby this Bill was passed to be engrossed.

On motion of the same gentleman, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" was adopted.

The same gentleman offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-708) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I have some problems with this bill that is now back for consideration for this amendment, "An Act Enabling the Department of Health and Welfare to Conduct a Program to Provide Free Drugs to the Elderly and the Disadvantaged."

The amendment that I am offering is to ask the department to give back to the Governor and the Executive Council, and then in fact will come back to us, the program that has been outlined, those who have participated in the program, for our consideration in six months and that will be when we come back in the special session in 1976. I am very skeptical that this program can even be funded in this method but, nevertheless, some of us who object are more than glad to support the bill and the concept and in the spirit that it was offered. I might say to this House, if in fact you accept the amendment or you don't, and you do accept the bill, that when it comes back in the next session, if the Governor is unable, and the Commissioner to raise sufficient amounts of money, myself or someone else, and I am sure Mrs. Goodwin, will sponsor an appropriation that will go onto this bill and it will cost, I would say, a lot of money. It will be millions of dollars, so if we give the department and give the commissioner an opportunity to give us a review of what they in fact have accomplished, if anything, and I don't mind having a little egg on my face, but I suspect that it probably will be the whole House that will have it.

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

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto in non-concurrence and sent up for concurrence.

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

An Act Concerning Municipal Property Tax Bills. (H. P. 940) (L. D. 1313)

Tabled — June 9, by Mr. Lizotte of Biddeford.

Pending — Passage to be Enacted.

On motion of Mr. Dam of Skowhegan, under suspension of the rules, the House reconsidered its action whereby this bill was passed to be engrossed.

The SPEAKER: The Chair recognizes the gentleman from Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker and Ladies and Gentlemen of the House: What this amendment does, it spells out more clearly the language that was wanted in the bill than what the committee amendment did and this amendment was prepared through the help of the Bureau of Taxation and what it says, is it spells out and will show the percentage of tax allocated for education, municipal services, county taxes and special district taxes whereas, in the original committee amendment, it didn't spell this out and it left a lot to be desired as far as the Bureau of Taxation was concerned and they felt there would be problems with the amendment, with this new amendment it will clear up any problems.

On motion of the same gentleman, under suspension of the rules, the House further reconsidered its action whereby the House voted to adopt Committee Amendment "A".

The same gentleman offered House Amendment "A" to Committee Amendment "A" and moved its adoption. Committee Amendment "A" (H-704) was read by the Clerk.

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

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

The Bill passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto in non-concurrence and sent up for concurrence.

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

House Divided Report — Majority (12) "Ought to Pass" — Minority (1) "Ought Not to Pass" — Committee on Liquor Control on Bill "An Act Authorizing the Licensing of Indoor Tennis Clubs, Indoor Skating Clubs and Golf Course Clubs for the Sale of Alcoholic Beverages without Requiring the Sale of Food" (H. P. 1631) (L. D. 1906)

Tabled — June 9, by Mr. McKernan of Bangor.

Pending — Motion of Mr. Maxwell of Jay to Accept the Majority "Ought to Pass" Report.

Mr. Faucher of Solon moved for the indefinite postponement of this bill and all its accompanying papers and requested a roll call.

The SPEAKER: In order for the Chair to order a roll call, it must have the