

SENATOR HABERMAN: I don't think it would, Senator Smith, because I do not know of any, in my district anyway, any small newspapers that charge over the legal rate. However, if they did charge over the legal rate, which they can do, how would you advertise in your district?

SENATOR SMITH: Yes, I know what you're saying. Maybe what we need to do, and maybe it's possible to do this, if no one is abiding by the cap anyway, maybe we ought to just remove the cap. I mean here we're talking about two things, we say that we can't, in statute, pay more than that. We know that people are paying more than that, and we're doing nothing about it. So maybe what we need to do is just remove it. It's something that we don't need to have. I can tell you all one thing, the General Affairs Committee heard this bill in committee and it raised a lot of questions in the testimony that we heard that day. What we have decided to do is to study this issue in depth during the interim.

PRESIDENT: Thank you. Senator Haberman, then Senator Warner.

SENATOR HABERMAN: Senator Ashford made the remark or the suggestion that we have some sort of a refund. Well, Senator Ashford, that is impossible under the present statute as the Attorney General cannot prosecute to go after that refund. Now, Senator Barrett said that it's constitutionally suspected, some of the parts of it. So, as I say, I have ran this by the Attorney General and he says there is no problems, it's constitutional. It doesn't even touch the first amendment, it doesn't even touch it. So we do not have an unconstitutional bill, or amendment, unless it's tried in the courts. Now, the reason it's not unconstitutional, it doesn't bother their first amendment is they do not have to publish the notices. If they don't want to publish them they don't have to, we're not telling the newspapers they have to publish the notices. What we are saying, basically, to the newspapers, if you do publish them and overcharge what the legal rate is, you might have a problem, or you are going to have a problem. That is the only thing we're saying. So I don't see what the big...what everybody is so concerned about. It is constitutional to set the rates, and, again, we're not forcing anybody to accept those rates. So I would again ask you to leave the amendment on the bill and let's go on with it. Thank you, Mr. President.