

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**LEGISLATIVE RECORD**

OF THE

***One Hundred and Ninth  
Legislature***

OF THE

**STATE OF MAINE**

**Volume I**

**FIRST REGULAR SESSION**

**January 3, 1979 to May 4, 1979**

Thursday, January 4, 1979  
After Recess

11:30 AM

The House was called to order by the Speaker.

The SPEAKER: The Chair would make note that this is the continuation of the First Legislative Day.

The Chair would appoint the gentleman from Cumberland, Mr. Garsoe, to inform the Senate that we are ready to join in a Joint Convention.

Subsequently, Mr. Garsoe reported that he had delivered the message with which he was charged.

At Ease

Called to Order by the Speaker.

At this point, the Senate entered the Hall of the House and a Joint Convention was formed.

In Convention

The President of the Senate, the Honorable Joseph Sewall, in the Chair.

The Convention was called to order by the Chairman.

The CHAIRMAN: The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Chairman, I request a quorum call.

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

Mr. KATZ: Mr. Chairman, I would inform the Chair that all members of the Senate are present, except for the Senator from Androscoggin, Senator Cote.

Mr. MARTIN: Mr. Chairman, I will announce that all members of the House are present.

Whereupon, the Chairman declared a quorum present.

The CHAIRMAN: The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Chairman, I move that this Convention, noting the absence of Senator Cote, authorize the President of the Senate and Speaker of the House to establish a procedure by which Senator Albert Cote of Lewiston may vote in this Convention on such matters as may come before it.

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

Mr. KATZ: Mr. Chairman, I would oppose the motion to permit Senator Cote to vote on an absentee basis. Indeed, I have never heard a request previously to permit absentee voting in a Joint Convention.

Yesterday, when the question was first raised, we caused some research to be done going back into the 1850's, and we were unable to find any precedent which would indicate it was proper for someone who was not physically present in the chamber to vote in the Joint Convention.

Referring your attention to the Constitution, Article 5, Part Third, pertaining to the Secretary of State, Section One says, "The Secretary of State shall be chosen biennially at the first session of the Legislature by joint ballot of the Senators and Representatives in convention." It is the legal advice that has been given to us that "In convention" means physically in the convention. On that basis and because of the extraordinary nuances of this precedent for future legislatures in cases not quite as appropriate as this one, I would ask all members of this convention, despite the feeling of compassion in your heart which I share for the unfortunate hospitalization of the Senator from Androscoggin, Senator Cote, to vote against this motion.

The CHAIRMAN: The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Chairman, Men and Women of the Convention: The issue before us is obviously a troubling one. We have missing from our membership an individual elected by

the citizens of my own country, a citizen who represents over 33,000 of our citizens, an individual who just last evening was sworn into office by the Chief Executive of this State.

The issue before us is of the most fundamental fashion — whether we are to allow an individual to cast his vote on perhaps one of the most important issues, if not the most important issue, which will face the 109th Legislature.

The good Senator from Kennebec refers to the legal advice given to him that this would in some way be inappropriate.

Late yesterday evening, in a meeting of joint leadership, it became clear that the possibility of Senator Cote casting his vote would be challenged on a legal basis, and on that position, an opinion was requested by the Speaker of the House of Deputy Attorney General John Patterson.

This morning delivered to us was a four-page opinion specifically answering the question whether this caucus could authorize an individual, an absent member, who was officially sworn in but in the hospital, to vote without being physically present. The answer is clear, and that is that this convention, by vote, may authorize a procedure in order to establish a way that Senator Cote could vote with us this morning.

The precedence that the good Senator from Kennebec was unable to find obviously relates to those periods before we were able to discuss such a joint convention directly. Precedence in the Nineteenth Century, prior to the adoption of the telephone, obviously could give very strong policy arguments against voting in a convention where an individual was not physically present. Those ancient obstructions have long since gone past.

In urging you to vote with me this morning in favor of my motion, I remind you of one good statement that the good Senator did make, and that was the question of future joint conventions, because, ladies and gentlemen, which one of us might be the one incapacitated and unable to attend the convention? Which citizen next time would be disenfranchised should this motion be defeated this morning? Ladies and Gentlemen, think that question over very carefully, and I urge you all to vote your conscience.

The CHAIRMAN: The Chair recognizes the gentleman from Lewiston, Representative Jalbert.

Mr. JALBERT: Mr. Chairman and Members of the Senate and House in Joint Convention: You know, on the first Wednesday of 1945, I would not have had much to say in my first term concerning such a situation. I had been told before by the Republican Speaker, who was a friend of my family through marriage, that I was to be here, I would be given a warm seat, a check, how so ever small, every week, and one travel check per session. From then on, I was to sit and listen and be quiet. Many moons have gone and a lot of water has gone under the bridges since that day.

I am going to speak and address my remarks to the Senator from Kennebec, Senator Katz, with whom I have had a few altercations but with whom on many, many occasions I have had very pleasant conversations, visits in his home, visits at his place of business, and on many occasions, including this morning, as a matter of fact, he and I had a pleasant conversation, and part of the conversation involved one word that he issued when he made his remarks this morning, the word 'compassion.' I am going to address myself to that word — compassion.

I know that I am in a position possibly of some sort of prejudice through love of a friend, a man with whom I was brought up, a man, as a matter of fact, that I helped to bring up, a man who served in this body with honor and distinction for 26 years, the man who cried the night he was nominated when thanking me for help-

ing him, a man with whom I went out to lunch a week ago today and spent the better part of an hour when he took me home to tell him. "Albert, you don't look well, would you please go see a doctor," a doctor I had recommended to him on a previous occasion. He refused, yet he called me within two hours to tell me what was really wrong with him, and he felt, to a certain degree, a little bashful about telling me. I then told him to do something about it. Finally, what he did was to be operated on within a few hours after I spoke to him.

The one thing this man wanted in his life, and I asked him when he left me here, I said, "Albert, please," I begged him, "stay with me." The one thing this man wanted was to finish his political career, finish his tenure in office as a public servant serving this body as a State Senator. The one thing he talked to me about almost daily, and I either see him daily or I talk to him daily, was the inauguration. He loves this body so much, as a matter of fact, he wanted the inaugural affair here, but he recognized the fact that a great many friends of an incoming governor also want to see the festivities.

I speak of compassion, Senator Katz, a virtue, whatever the result is today, that you not only have but you possess. And only two weeks ago I read an article that you wrote, Senator Katz, which was in the Kennebec Journal, which had a word 'compassion' written all over it, and I speak about your return from your recent trip to Israel, and you recall calling me two days before you left to say goodbye to me. I speak of compassion.

What harm is there to the President of the Senate and Speaker of the House, whatever outcome there would be? I raise my hand to God that if the situation was in reverse and it would be me who would be a candidate and any one of my people would say, well, we can stop one person who is against you from voting, I would say, I don't want your vote.

I speak of compassion for a man who has served 26 years in this body, who this morning said to me, "Louie, do you think I am going to make enemies because I am not there? Is there any way that you could call Dr. Cloutier and ask him to let me be there?" I said, "Not one way." I did speak to Dr. Cloutier and he informed me that the operation was very dangerous. I know what it is to come up here when you don't feel well in an ambulance, and I know what it is to suffer the consequences, because I am suffering them right now, but we are not talking about me, we are talking about a young man I love very dearly, as I would a brother, as I do the President of the Senate, as I have grown to feel about the Speaker of the House, and I have had some real rhubarbs with him, you better believe it, as I have had rhubarbs with Senator Katz and many of you here. When I stop barking with any of you, forget it, because that means I don't want to have anything to do with you in the first place, which means I am going to have one heck of a lot of arguments from now until we adjourn the last day.

But seriously, in dead honesty, with all the possible command that I would have in my humble body, regardless of the outcome, it only means sending a state trooper with maybe a Democrat or Republican, or whatever rules you set, to Room 373 at St. Mary's Hospital 30 miles from here — 40 minutes over and 40 minutes back — to have a man, whose life's ambition has been to finish his career as a State Senator and through an act of God was operated on and cannot, absolutely cannot be here. Should he travel here in an ambulance, he would never make it. Who would want that on their conscience? What harm is there, regardless of the outcome?

I would be ashamed, completely and thoroughly ashamed, not to allow any man to cast a ballot, regardless of the Patterson opinion, when he, through an act of God, is unable to be present in this body today to tend to the duties

that he wants to tend to. I beseech you, members of this honorable body, and I beseech you, Mr. President, Mr. Speaker, somehow, some way, do not allow this to go down the drain. Make it possible for us to start out a session as we should, as friends. The teeth, in my opinion, of bad policy if we do not allow this man to vote, regardless of my personal feelings, will stay with us from the moment we do it until the day we adjourn, and it will cost the people of the State of Maine dearly. This cannot happen. The ranks are close. Naturally there will be political issues. Let us say maybe this might be a political issue. As a matter of fact, how does anybody know how a man may vote; it is a secret ballot.

I plead with you with a prayer in my heart, please, I beg you, allow this man the privilege that is rightly his, the right to be able to vote in some form, some way, here in this convention assembled today. (Applause)

The CHAIRMAN: The Chair recognizes the Senator from Washington, Senator Silverman.

Mr. SILVERMAN: Mr. President, Mr. Speaker, Members of the 109th Legislature: Being an Independent Senator, not being under the regulations of party control, I think it is only right that an Independent approach is able to speak here today.

Knowing Senator Katz, it was probably a most difficult negative to put in the body of this house. Listening to my former colleague, Louie Jalbert, to come out as he spoke today with the word 'compassion,' I don't speak on the word 'compassion.' I speak on the word called fairness. Fairness is saying, did I win an election because someone was physically sick and couldn't come here and vote for the thirty-three or thirty-five thousand constituents who elected him to office? Did I walk away with the pot of gold because I was able to take advantage of him under these circumstances? Is this what we stand for when we want the final reward? Is this the importance of our vote? Is fairness not a word that should be in the chambers of Maine government?

We all know the man's condition today. We all know he wants to vote; we all know that it is possible. Yet, can 92 or 93 members of this House and Senate decide that it is more important to win this special seat, or three seats, than to be fair to a man who is sick? If you win because you denied this vote, I guarantee you, in the eyes of Maine people you have lost. If you win because you were fair and did your best and had the best candidates, you have won. I only urge every member of these two bodies to vote for the motion of the good gentleman from Lisbon Falls, Mr. Tierney, to allow in the doctrine of fairness in the history of Maine government to allow the Senator from Androscoggin, Albert Cote, to have that right. (Applause)

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

Mr. COLLINS: Mr. President and Members of the Joint Convention: It is a difficult matter to take position against sympathy, but it is well known in our legal history that heart cases make bad law, that when we do something because it basically is an act of sympathy, we live sometimes to regret it because the precedent that it creates binds us for the future to an opening of doors that may not be the wise policy for all time.

Yesterday, many of us hoped that we would get some guidance from the Supreme Judicial Court on an important question. The court might very well have liked to help us, wanted to help us with our problem, but they said to us that they could not help us because it was not within their power to do so. I submit to the convention that that is our problem today. The people who wrote our Constitution said something very clearly, they said that we, in joint convention, must cast ballots in convention — cast ballots in convention, and the critical word is 'convention.' What is a convention? It is a convening of bodies. It is not conducted by mail

or by telephone or by radio or however, and for years and years it has been the standard parliamentary practice in legislative bodies that absentee ballots may not be cast in those legislative bodies in the absence of a special rule.

I discussed with the Deputy Attorney General who wrote the letter that the Majority Leader of this House has described if he had found any precedent that indicated that any convention permitted something to happen coming from a body that was not present, a physical body, and he had found none that described convention as anything other than a group of people meeting together. I think you can see the wisdom of that if you look through the years it happens in conventions.

We know that sometimes the nominees in a convention are not even known until the very last minute. That happens to be the case today. We have three people to choose today. Until the nominations are made, the candidates are not officially known to the person who must vote. Are we to recess three times and wait for couriers back and forth to Lewiston? Suppose the missing member were in Fort Kent, suppose he was stricken on the high seas and radioed in. How long would a convention be delayed to get results?

The idea of 'in convention' was written into the Constitution for a purpose, and I think that we must honor that purpose. I do not think that even if we wish to do so we would have the power to change the constitutional mandate that ballots be cast in convention, and that 'in convention' terminology means people being here. I would urge you to vote against the pending motion.

The CHAIRMAN: The Chair recognizes the gentleman from Bangor, Representative Kelleher.

Mr. KELLEHER: Mr. President, Mr. Speaker and Members of the Joint Convention: Senator Katz and Representative Jalbert and the statements from the floor discuss the right of the individual, Mr. Cote, to vote along the lines of compassion. I think this house should weigh their remarks and look at it from a different viewpoint—their right to vote, or in this case, Mr. Cote's right to vote.

Senator Collins raised some hypothetical situations here, if someone was on the high seas, which Mr. Cote is not, that he lives in Fort Kent, which he does not, and he expressed his legal opinion on the right of an absent member to vote in Joint Convention. I did not hear him take any great issue with the opinion that was passed downstairs by one of the Deputy Attorneys General. I guess as a lay member of this body and not being a member of the legal profession, we view an attorney general's opinion either way, whether it supports our own position or it does not support our own position. As someone once said in this body, it is only one man's opinion, anyway. But I think it is the opinion of the 180-odd of us here today of whether an individual duly elected as a member of the incoming legislature, as a sworn member by the Governor of this present legislature, the right for him but not him in particular but more important, the 33,000 people who elected him.

Senator Katz raised the point that there is no precedent set in allowing it to happen. We, in joint convention, can allow it to happen. We can enfranchise the right of an elected official of this state to participate in the process to represent his own thinking and the thinking of his constituents.

I understand that negotiations were attempted last night between the distinguished members of both branches of leadership in trying to work out a compromise and that compromise did not satisfactorily arrive to some people in leadership.

I would ask the distinguished members of leadership, and there are only 10 of you, to work out a very simple method, a right, honest and just method, to allow a duly elected

member of this legislature to vote.

We delayed voting last night on the constitutional officers because one of the major candidates withdrew. There didn't seem to be any emergency or alarm in the fact that we postponed it until this morning. If we could allow ourselves that pleasure of waiting 10 or 15 hours to vote on the particular constitutional officers, and I can't, for the life of me, understand how any one of you in good conscience could not vote to allow an elected member of this body, this convention, to vote today.

Someone said in their comments that it doesn't matter what the end results will be, it is the results that this individual, his constituents would have a right to be represented.

Is politics a question? If that is the case, why did we all run for public office? Why do we belong to political parties? Why do we run as Independents? Why do we have differences of opinion on issues? Politics is an issue here. There is no clouding the fact, there is no way to hide from it, and the thing we cannot hide from is the right of allowing a man, that we can do in joint convention, not the privilege but the right to cast his vote here today for the constitutional officers of this state or any other issues that may be coming before us in joint convention.

I have the greatest admiration for the Majority Floor Leader in the Senate; I sincerely mean that. He is a very capable individual, and I would feel as comfortable as if I were doing it myself in creating a method to allow the Senator from Androscoggin to vote, and I would honestly urge this body to let the honorable gentleman from Kennebec, Senator Katz, work out his compassionate feeling for the man, but, more importantly, the right of his constituents to be heard here today. He is a fair man, Senator Katz. He represents an outstanding party in this state and I think he could do everyone in this room and everyone living in this state a personal favor by allowing one man to have his right to vote here today. He is absent beyond his control, but his people should not be absent. Those 33,000 that elected him or he was elected to represent should have a voice in the government of today. So I would urge you, Senator Katz, and I would urge any other member who wants to support his objections to Mr. Tierney's motion, to put those reservations aside and give the elected Senator an opportunity to vote. (Applause)

The CHAIRMAN: The Chair recognizes the gentleman from York, Representative Rolde.

Mr. ROLDE: Mr. President and Members of the Joint Convention: There has been a good deal of discussion about the fact that there are no precedents for absentee voting. I would call your attention to the fact that the previous legislature and legislatures previous to that have made a provision for absentee voting under certain circumstances. If you look at Joint Rule 12 of the 108th Legislature, it does set up a precedent for absentee voting in the case where the legislature calls itself back into session for, as it says, a convention of the legislature. And that rule reads, "If any member of the respective branches of the legislature shall not appear pursuant to the notice of the President of the Senate and Speaker of the House for reasons of physical inability to attend or otherwise the President of the Senate and the Speaker of the House, as appropriate, to poll the member by the most efficient means possible or shall accept the member's proxy on the question." The rule then goes on even to provide a provision if the member, as it says, cannot be polled or does not respond, his vote counts in a certain way. I would just emphasize the fact that Senator Cote can be polled and he will respond.

The CHAIRMAN: The Chair recognizes the gentleman from Enfield, Representative Dudley.

Mr. DUDLEY: Mr. President and Members of the Joint Convention: I suspect that in the 109th Legislature, before we leave here, we

will set precedents that have never been set before, probably one today and probably many others.

I, for one, am not afraid of setting a new precedent, tackling new challenges. I enjoy that; I think that is what we are here for, and I hope you share my views.

I want to be brief, but I do hope that you are not afraid to establish any new precedents or walk over any new ground. This is going to happen not only today but probably again before you leave here in the 109th Legislature.

The CHAIRMAN: The Chair recognizes the gentleman from Lisbon Falls, Representative Tierney.

Mr. TIERNEY: Mr. Chairman, Men and Women of the Convention: This is a brief reminder. The motion reads that the President of the Senate and Speaker of the House be authorized by this convention to establish a procedure to allow Senator Cote to vote.

In response to the Senator from Knox, Senator Collins, we are in convention, and the procedure which would be adopted would be by ballot. The procedures have been met. The time to vote is now.

Mr. Chairman, I move that the vote be taken by paper ballot.

The CHAIRMAN: The Chair recognizes the gentleman from Cumberland, Representative Garsoe.

Mr. GARSOE: Mr. Chairman, Ladies and Gentlemen in Convention: I refuse to be put on the defensive by the appeal in our compassion. I feel that compassion is spread evenly in this body, and I don't think that it was intended but I did get a slight feeling that perhaps anyone who didn't agree with the arguments being advanced would be guilty of a lack of compassion. I don't think that is the question at all.

I would like to respond very briefly to the gentleman's remarks from Lisbon that this convention can do anything it wishes. It takes you right back to town meeting, doesn't it? We have always said that about town meeting.

There is a difference here, however, in that we can do anything in convention that we desire as long as it doesn't fly in the face of the Constitution. You heard Senator Collins indicate that the Constitution is very specific that the ballots are to be cast in convention. Therefore, any rule that would broaden that understanding or that practice would be suspect and I must raise the prospect that if anyone were dissatisfied outside this body with the resolution of this question might open the whole process in the election to suit. It is a hazard we are facing if we do fly in the face of the Constitution.

The subject of the disenfranchising our voters — don't go to the gentleman from Lisbon or myself or the Speaker during this session and point out that you are going to be unavoidably detained and your people will be disenfranchised if you can't vote and ask for an absentee ballot on much less important material that is going to be coming before this body before we are out of here — it just isn't done. Now we are in a very solemn occasion where unless there were a rule, as Mr. Rolde points out, he has found a rule where under certain circumstances you can poll legislators — there is no rule to provide for this. So unless we are considering apples and oranges, the disenfranchising of voters is not holding water in my book.

We knew, it has been in the press often enough and I think we have always known that we had the hazard of being here in person to participate in these proceedings. There are two or three of us in this body who underwent serious operations in the last few months, and any one of us could be in this same position today, but it has never entered my mind that if I were in this position anything would happen except that my vote wouldn't be cast. I think we are being put in a difficult situation here today, and a change is being requested that we should

deny.

The CHAIRMAN: The Chair recognizes the gentleman from Waterville, Representative Kany.

Mrs. KANY: Mr. President and Members of the Legislature: I would like to pose a question through the Chair to either Representative Garsoe or Senator Collins. That is, do you believe that the law court would find it a solemn occasion to address the question if the convention could adopt a rule so that someone could vote by absentee ballot?

The CHAIRMAN: The gentleman from Waterville, Representative Kany, has posed a question through the Chair.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President and Members of the Convention: I think the answer was very clear from yesterday's opinion. This joint convention has no constitutional power to ask the law court for an advisory opinion.

The CHAIRMAN: The Chair recognizes the gentleman from Bangor, Representative Soulas.

Mr. SOULAS: Mr. Chairman and Members of the Convention: In 1975, during the 106th Legislature, one of the most important votes ever to come to this House of Representatives at the time was the ratification of the Equal Rights for Women. At that time, I was in the hospital in Bangor, having just undergone a operation, probably one which meant life and death to me personally. My vote was so necessary at the time, but no way was I able to get here except by being driven, helped up the stairs, stood here in this body with the help of a cane, cast my vote, and return to the hospital. The vote was just 101 in favor of women's lib. The point is quite clear — no one was willing to change their vote to make it easy for me. I was forced to make my vote personally.

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

Mr. KATZ: Mr. President, we have a decision to make. It is a hard decision, but the procedure is a reasonably simple one. I am perplexed by the request for a secret ballot. We are making a decision, the people's decision, out in the open, and I would ask the gentleman from Durham, Mr. Tierney, whether he might not withdraw his request for a secret ballot. Otherwise, I ask the convention to vote against the request.

The CHAIRMAN: Is it the pleasure of the convention that this vote be taken by a division?

It is a vote.

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

Mr. GARSOE: Did I hear the Chair gavel the question as being the fact that we would vote by division?

The CHAIRMAN: The Chair would answer in the affirmative.

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

Mr. KELLEHER: Mr. Chairman, I would like to pose a question to the Chair or any other member of this convention. Are we not now establishing a precedent by an open vote in joint convention? In the ten years that I have been here, any votes that were taken in joint convention were taken with a secret ballot. So my question is, are we not establishing a precedent right now on procedure and how we are going to take the vote?

The CHAIRMAN: The Chair recognizes the gentleman from Bangor, Mr. Tarbell.

Mr. TARBELL: Mr. President, Ladies and Gentlemen of the Convention: I believe that the questions pending before us now are not the actual votes for constitutional officers, which historical precedent prevails that we vote by secret ballot. The questions pending before us now are parliamentary motions and parliamentary rules that we will adopt on deciding and moving our way towards these constitutional

officer votes.

I would think that the motions and the rules that would pertain to how we are to vote are parliamentary rules and they are rules to be taken by open vote.

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

Mr. JALBERT: Mr. Chairman, by the Senator from Kennebec Katz's very motion, in effect, hoping that it would be turned down, the precedent which he opposes is set now. If the Senator from Kennebec, Senator Katz, was opposed to this entire procedure, his motion should be that we nullify what we said and take no action whatever. But he actually has made a motion as to whether we should or should not allow this procedure. He is setting his own precedent.

The CHAIRMAN: The Chair recognizes the gentleman from Bangor, Representative Kelleher.

Mr. KELLEHER: Mr. Chairman, If I am not out of order, and if I am I hope you would correct me, I asked a question and I didn't get an answer. Have we ever before, in a joint convention, voted otherwise than by secret ballot on any issues that have come before us in a joint convention?

The CHAIRMAN: The gentleman from Bangor, Representative Kelleher, has posed a question through the Chair to any member who may care to answer.

The Chair recognizes the gentleman from East Millinocket, Representative Birt.

Mr. BIRT: Mr. Chairman, I have spent some time thinking over this particular question that has been posed by the gentleman from Bangor, Mr. Kelleher. I made some remarks yesterday in the caucus after talking with one of the other senior members. To my knowledge, in the 16 years that I have been here, I have never known of any motion to have to be put to a joint convention except on the individual officers. So, I do not feel that there is any precedent for a vote at the present time.

The CHAIRMAN: The Chair recognizes the gentleman from Limerick, Representative Carroll.

Mr. CARROLL: Mr. Chairman, Ladies and Gentlemen of the Joint Convention: I would like to point out that the right and privilege of voting by secret ballot is a right that has never been denied a man in the United States of America. You are talking about a communist form of government where they look over your shoulder and tell you how to vote under the gun. Are you afraid to let your membership vote their conscience unknown to you?

I am not afraid to vote my conscience, and I demand the right to vote by secret ballot. I am not in Soviet Russia, I am in the United States of America and you cannot deny me that right.

The CHAIRMAN: A division has been ordered. All those in favor of voting by paper ballot will vote yes; those opposed will vote no.

A vote of the Convention was taken.

92 having voted in the affirmative and 91 having voted in the negative, the motion did prevail.

The CHAIRMAN: The method by which the vote will be taken, we will have official ballots for each election. The ballots for this contest will be distributed and please do not fold the ballot. Maintain confidentiality by turning it over, if you so desire. The hall of the House will be secured after the ballots are distributed and no one will be permitted to leave. The Chair requests your cooperation and that you remain in your seat until the vote is concluded, except when you are called forward to vote. The Chair will call voters forward to vote in an orderly fashion. The Senators sitting at the right, then the House members will be called by row. Please come down the middle aisle and return to your seats up the side aisle. Please do not rise and leave your seat until your section is called. Proceed at once to the ballot box in front of the podium, announce your name and

title to the Secretary of the Senate, staff person, at the ballot box, vote and return to your seat immediately. When all have voted, the Chair will declare the polls closed and the ballots will be sorted and counted by the Secretary and the Clerk and their staff.

The motion is that the President of the Senate and the Speaker of the House establish procedures by which Senator Albert Cote of Lewiston may vote in this convention. A yes vote will be in favor of the motion; a nay vote will be opposed.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. Chairman, once more, I would urge members of this body to consider the consequences of yielding to compassion in a very, very difficult constitutional sense, and I urge you to vote against this motion.

The CHAIRMAN: The Chair recognizes the gentleman from Lisbon Falls, Representative Tierney.

Mr. TIERNEY: Mr. Chairman, while it might be redundant, after the eloquent plea by the good Senator from Kennebec, Senator Katz, I would urge you to vote yes on the paper ballot before you now.

The CHAIRMAN: The pending question is on the motion of the gentleman from Lisbon Falls, Representative Tierney, that the President of the Senate and Speaker of the House establish procedures by which Senator Cote of Androscoggin may vote. All those in favor will vote yes; those opposed will vote no.

A vote of the Convention was taken.

The CHAIRMAN: The Chair is extremely distressed to announce that there are 183 members of the convention but that the total votes add up to 184, so that the vote is invalid and will have to be repeated.

The Chair would repeat that no ballots be folded and that only ballots to be used will be those that are distributed by the staff.

The Chair recognizes the gentleman from Portland, Representative Joyce.

Mr. JOYCE: Mr. Chairman, I would ask the Chair at this time to take another head count. I would like to start off at base zero here — I didn't know, I thought I saw the ghost of Albert Cote up there in front of me. I would like to start off even to be sure how many we have here.

I didn't like the procedure we used before. I would rather light the board up and then we can see who is here and just kind of keep this above the table. I pray you follow my suggestion.

The SPEAKER: The Chair would announce, except for Mr. Tarbell, who is not yet in his seat, 151 members are present and very shortly they will all be in their seats.

The CHAIRMAN: The Chair will also announce that there are 32 Senators present.

The pending question before the Convention is the motion by the gentleman from Lisbon Falls, Representative Tierney, that the President of the Senate and the Speaker of the House develop a procedure by which Senator Albert Cote of Androscoggin may vote in this Convention. A yes vote will be in favor of the motion; a nay vote will be opposed.

A vote of the Convention was taken.

91 having voted in the affirmative and 92 having voted in the negative, the motion did not prevail.

The CHAIRMAN: The Chair recognizes the gentleman from Lisbon Falls, Representative Tierney.

Mr. TIERNEY: Mr. Chairman, I would like to pose a question to the Senator from Kennebec, Senator Katz, and the Senator from Knox, Senator Collins. During the debate on whether or not Senator Cote should vote, it became very clear that the concern, especially with my good friend from Knox, was not one that they were individuals who were not compassionate, not individuals who were concerned with fairness, but people who were concerned with legal precedent. Now that provision has prevailed by the

very narrow margin, I would ask either one of those Senators to address themselves to the question now in the spirit of fairness, now in the spirit of compassion, as to which one of those individuals will pair on the remaining votes dealing with constitutional officers.

The CHAIRMAN: The Chair recognizes the gentleman from Cumberland, Representative Garsoe.

Mr. GARSOE: Mr. Chairman, did I respectfully observe that the gentleman's remarks are not germane and are out of order?

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

Mr. KATZ: Mr. Chairman, is the order at hand now the adoption of the rules that you read out a little earlier?

The CHAIRMAN: The Chair would advise the Senator that it is not yet before the body.

The Chair recognizes the gentleman from Eagle Lake, Representative Martin.

Mr. MARTIN: Mr. Chairman, I bring to this honorable convention an event which concerns me dearly, an event which I had hoped would not occur, an event which I feel, however, I must divulge.

Prior to any balloting on the question and the motion that was presented by Representative Tierney, I was told in the hall that there was going to be one more ballot cast than there would be people present. I could not believe that and, yet I saw it happen — 184 ballots were cast.

It is a difficult thing, one, of course, which perhaps should not be brought to this convention, but I think it must, or at least it should be brought to the people of Maine.

We then proceeded with the second balloting on the question as to whether or not Senator Cote would be allowed the right to vote. I then asked if it were possible to identify what, in fact, might have taken place, since the Secretary of the Senate had so diligently made every attempt to make sure that there would be no problems whatsoever.

The vote, as you may or may not know, was 94 yes to allow Senator Cote; 90, no. Then of course, that vote, by the Chair, had to be declared null and void because there were more votes cast than there were people present.

Subsequent to that, I was told basically what had happened. Subsequent to that, I asked the President of the Senate and myself to ask the person to which row that ballot had been given. The person, the aide, advised us as to which one it was, which row. I do not want to cast aspersions; unfortunately, they are there. Ten ballots were given to a row. The person felt confident that 10 had been given; yet, another one was requested. It brought back to me exactly what I was told would happen prior to the balloting — "This is a standard trick, giving us an opportunity to change whatever votes are necessary."

The vote has been taken and the vote has been declared — 92 no and 91 yes. As a result, it is now defeated.

I simply ask of the majority party — I repeat, they have the responsibility that we had two years ago and with it goes the liabilities, the glory — I simply ask that in all fairness one of two things occur at this time: First, that we unanimously allow Senator Cote to vote or that one honorable member of the opposition refrain from voting on the remaining balloting to take place. It is possible and I will tell you how, if anyone raises questions as to how that can be done. All the person has to do is walk out in the hall to demonstrate fair play, because obviously it has not been demonstrated. What I was told before the balloting had occurred, it has been substantiated by the President of the Senate, and I cannot believe that this joint convention will allow that to happen. (Applause)

The CHAIRMAN: The Chair recognizes the gentleman from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, Members of this Legislature: This is my ninth term here. The

charges that were just made are appalling. By innuendo, the Speaker of this body has cast a shadow over a great political party. I think it is shameful. Whoever put that extra ballot in, whether it was done by mistake or by contrivance, didn't know which way the vote was going to turn out. To suggest that he knew it was going to turn out one way or another is just absolutely impossible to accept as rational.

We have a simple task before us here today. I can't see the clock without my glasses, but I suspect we have been here for three hours. We are making a ludicrous spectacle in front of the people of the state.

We have to elect three constitutional officers. Where is your dedication to your constitutional duty? What are we going to do, continue taking votes until we get a vote that is appropriate to everybody? My impression is that every person in this hall is honest. I absolutely refuse to accept the fact that somebody was so mean and so dishonest that they purposely loused up a vote of this joint convention. No one was more appalled than the President. You could see in his face the discouragement when he found that there had been an extra ballot. So in good conscience, not knowing where the votes were, we voted again. Good heavens, what does the minority party want?

Mr. President, I suggest we get on with the business of this convention, and the business of this convention right now is the adoption of rules for the conduct of the convention; we don't have them yet. Immediately after that, I suggest that we get on with our constitutional duty and elect our constitutional officers.

The CHAIRMAN: The Chair recognizes the gentleman from Bangor, Representative Kelleher.

Mr. KELLEHER: Mr. Chairman, Members of the Convention: I can sympathize with my good colleague from Kennebec, Senator Katz, in feeling uncomfortable as a member of this distinguished convention that a mistake was made in the balloting process. Now, it is easy for us to imagine two ballots sticking together to be put in the box, but it is a little hard to try the imagination when you either have to write yes or no on those two ballots.

I went up to the rostrum and in no way was anyone making any indications that the honest mistake was made by a blank ballot. Each of those ballots, from what I could observe and hear, someone had to write on them. That is not fair play, and whoever did it, I am not very proud to say that I am standing in this body with the individual that did it.

We have some business here this afternoon. Senator and members of this body, and the business before us right now is, are we going to allow an elected, duly sworn member to vote, and I prevail upon the sincere kindness and the broad-mindedness of Senator Katz to display the fact that he is willing to let all the elected members vote and I guess, in good conscience, the easiest way for him to do that would be to either encourage himself or some other member of the opposition to pair with the gentleman from Lewiston.

The CHAIRMAN: The Chair recognizes the gentleman from Cumberland, Representative Garsoe.

Mr. GARSOE: Mr. Chairman, Members of the Convention: I had resolved not to get involved in this because I think it is exercises such as this that, over the past years, have coined the unhyphenated word of "cheap politician." I, too, feel very upset that this would take place today, but I am mostly upset in the manner in which this has been brought forward. Why wasn't this information made to us before this unsavory happening took place. I wasn't made privy to what was going to happen in this body. I had heard a rumor that the results of this contrived, rigged vote went against one party, went against my party's point of view, so we are just opening up a can of worms to proceed again with this type of recrimina-



tion.

The vote has been taken by secret ballot, as had been determined; the results are in. Can't we now get on with our business?

The CHAIRMAN: The Chair would now suggest that we proceed to adopt the joint rules to the convention.

The constitutional officers will be considered in the following order: Secretary of State, Treasurer, and Attorney General.

For each nominee, there will be one nominating speech, not to exceed three minutes, and one seconding speech, not to exceed one minute. The Chair will be vigorous in seeing that these limitations are observed. The voting will be done in the procedure which has already been established.

Only votes cast for names in nomination will be considered valid. In case of a tie, a second vote will be immediately taken. In the event the second vote ends in a tie, the Chair intends to call for a recess prior to a third ballot.

The election of constitutional officers by the legislature is a responsibility not widely shared in other states. I must emphasize the word "responsibility" and it rests on each of us. To live up to these responsibilities, this convention must be a model of decorum.

Again, I ask your cooperation, remaining in your seat until called forward to vote and then returning to your seat immediately thereafter.

Is the vote of this convention that the rules that are proposed guide this joint convention? It is a vote.

Nominations are now in order for the office of Secretary of State of the State of Maine for the political years 1979 and 1980.

The Chair recognizes the gentleman from Kennebec, Senator Katz.

Mr. KATZ: Mr. Chairman, I hope you will excuse me for dodging around, I felt that I was out-staying my welcome at that other mike.

I would like to place in nomination at the convention the name of Linwood Palmer.

The office of Secretary of State requires administrative ability, a good supervisory ability and some executive ability. Linwood Palmer has all of these. He also has the confidence of an extraordinary number of Maine people who voted for him as one of our candidates for Governor in the election just past.

When people talk about Linwood Palmer, they use always the same kind of words, like "decent," like "good" and when we refer to his business ability, because his background is completely one of business, they refer to him as a "capable businessman."

If you ask yourself whether Linwood Palmer is a capable candidate and a qualified candidate for Secretary of State, I suggest to you, looking back over those distinguished people who have held this office previously, that I cannot think in my time of a candidate for Secretary of State who is better qualified and better able to do the job than Linwood Palmer.

I am proud to place his name in nomination to be Secretary of State for the forthcoming political biennium.

The CHAIRMAN: The Chair recognizes the gentleman from Scarborough, Representative Higgins.

Mr. HIGGINS: Mr. Chairman, Members of the Convention: It is with unprecedented pleasure that I rise today to second the nomination of Linwood Palmer of Nobleboro for the office of Secretary of State.

While many of us here had hoped that Linwood would be occupying another office on the second floor this year, given the events of November 7th, we are extremely pleased that we will not be losing his special talents. Most of us who have worked with Lin Palmer in the legislature know that he is a man of complete fairness and unquestionable integrity.

I have always felt that the test of a man's true character and worth is not exemplified necessarily by what he thinks of himself but rather by what other people, especially the

loyal opposition, say and think about him, and this is where I have the greatest admiration and respect for Lin Palmer.

I cannot, despite the partisanship that sometimes, and today especially, splits these halls, think of one time any person, Republican or Democrat alike, offered an unkind word or lost their respect for this man. Lin Palmer is a man that has and will continue working untiringly for the betterment of Maine state government as a whole. He is a man who has a great love and concern for Maine and her people.

I would hope that we would not let this special talent and special man go to waste. People of Maine need him, and so I am extremely proud to be called upon to second this fine gentleman's nomination.

I hope that you will join with me in electing Lin Palmer the next Secretary of State.

The CHAIRMAN: The Chair recognizes the gentleman from Pittsfield, Representative Wymen.

Mr. WYMAN: Mr. Chairman, Ladies and Gentlemen of the Joint Convention: It is important to realize, I think for each of us, that the office of Secretary of State, perhaps more than any other office or agency, department of state government, touches the lives of Maine people in a very direct way. The administration and supervision of our election laws and also the supervision of the Department of Motor Vehicles—this office has a direct impact in governing the lives of our citizens, and so it is important that we elect a person to be the Secretary of State who is, indeed, capable, someone who has demonstrated capacity for hard work, who has boundless energy, and I believe that Rodney Quinn is such a person.

I have come to know Rod Quinn these two years as he has served in this legislature as a member of leadership. His own experience is beyond the political; he has also had a lifetime career in the military and has also established a career for himself in the academic realm. He is a person that has a well-balanced experience and he is a person, if you know Rod personally, who will work very, very hard to make the office of Secretary of State responsive to the many people it serves directly. Rod Quinn is a gentleman who, as Secretary of State, will be accessible and open not only to legislators on both side of the aisle but also to all citizens. If they have a particular problem and they come to the office of Secretary of State, they can be sure that it will be handled not only expeditiously and efficiently but also with a good deal of understanding and compassion. So, Mr. Chairman and men and women of this joint convention, it is a great honor and privilege for me to place in nomination for the office of Secretary of State a colleague, a personal friend, someone whom I greatly admire, the Honorable Rodney S. Quinn.

The CHAIRMAN: The Chair recognizes the gentleman from Hampden, representative Prescott.

Mrs. PRESCOTT: Mr. Chairman, Members of the Joint Convention: I am happy to second the nomination of Rodney Quinn as Secretary of State, because we need an individual who will clearly view the needs and shortcomings of that present department. We need a person who is able to inspire the people within and without that department as well. Rodney has those necessary management skills and his instincts are those of a very fine administrator. His recommendations and advice are always backed with reason and he is always willing to do more than we ask of him.

I am convinced that Rodney Quinn will administer the office in a fair and impartial manner, and it is for that reason that he deserves your support.

Mr. KATZ of Kennebec moved that the nominations cease.

The CHAIRMAN: The Chair recognizes the gentleman from Lewiston, Representative Jalburt.

Mr. JALBERT: Mr. Chairman, there has

been a lot of talk here about open ballots and secret ballots. Now, I am going to declare myself right now as being one who wants a secret ballot and it is going to be a secret ballot. I move, I will suggest it or if I have to make a motion, I will make it.

I have absolutely nothing but very strong feeling, and they both know it, for the Clerk of the House and the Secretary of the Senate, but while the last two votes were being taken, I still can't understand how one election could be 94 to 90 and another one 92 to 91, but I am not going to go into that, it is all over, it is history. Now we are going to have a secret ballot. I have been wanting a secret ballot in here since 1945. Mr. Chairman, I would like to have one for a change.

My suggestion is this: The Clerk and the Secretary of the Senate have the names on the ballots of both Mr. Palmer and Mr. Quinn. Is that correct?

The CHAIRMAN: Correct.

Mr. JALBERT: Now, we have the President of the Senate, who is the presiding officer of this convention, and his friend and partner in justice, the Speaker. What I want is this — I want a chair, a table, and a box right where that young man is standing. I want everybody called or else line it up the way you want to. Everyone is given a ballot with Mr. Palmer's name on it and everyone is given a ballot with Mr. Quinn's name on it. Mr. Chairman, you could give Mr. Palmer's ballots and the Speaker would give Mr. Quinn's ballots, walking right by, right behind the Clerk and the Secretary of the Senate and the Assistant Clerk of the House, then you hand them the ballots and they turn around and drop whatever ballot they want to in the box right in front of them by themselves with nobody peeking inside to see where they are casting it — a "secret" ballot. That is a secret ballot. That is the way I want it done, and so I move.

The CHAIRMAN: Is there any objection to the convention to the procedure?

The Chair recognizes the gentleman from Cumberland, Representative Garsoe.

Mr. GARSOE: Mr. Chairman, no objection, but I don't think I quite follow what the gentleman was suggesting. Did I understand that he is suggesting that the speaker give out one ballot and the Senate President give out another and I would take both of them and I would go over and drop one in the box?

The CHAIRMAN: That is the understanding of the chair.

Mr. GARSOE: Mr. Chairman, that doesn't seem like a very secret ballot to me.

(At this point, Representative Jalburt of Lewiston demonstrated the procedure for a secret ballot.)

The CHAIRMAN: The Chair recognizes the gentleman from Kennebec, Senator Katz.

Mr. KATZ: Mr. Chairman, do I understand that the gentleman from Lewiston, Mr. Jalburt, is moving to suspend the rules, because we have just adopted rules for the conduct of this election and it seemed to be pretty good. I would suggest if he wishes to make any deviations, he does, indeed, have to suspend the rules.

The CHAIRMAN: The Chair recognizes the gentleman from Lewiston, Representative Jalburt.

Mr. JALBERT: Mr. Chairman, there was no such a rule made as to how we should vote. We are voting by secret ballot and you don't vote by secret ballot when five or six people are peeking into the box while you are casting your ballot. If you call that a secret ballot, I am a Republican.

The CHAIRMAN: The Chair recognizes the gentleman from Bangor, Representative Tarbell.

Mr. TARBELL: Mr. Chairman, Ladies and Gentlemen of the Convention: I would submit to the Chair at this point in time if there is going to be any suspension of the rules or any changes in the rules that were formerly laid

out previously by the Chair as to how we would conduct balloting, that it be done so by a vote. It is my understanding that the Chair earlier on read precisely what the rules would be in the second paragraph and that leadership on both sides of both parties have agreed in advance as to what the rules would be. It is my understanding that we adopted those rules.

Secondly, if there is to be any diviation whatsoever, I urge that it be done after we vote on whether or not we are to suspend the rules that we adopted earlier on.

The CHAIRMAN: The Chair recognizes the gentleman from Lisbon Falls, Representative Tierney.

Mr. TIERNEY: Mr. Chairman, I would pose a question to the good gentleman from Bangor, Mr. Tarbell. I would like to have him point to the rule and read it to us that is being violated or propose suspension. At least in the copy of the rules given to me by Senator Katz there seems to be absolutely nothing inconsistent with the suggestion of Representative Jalbert in the rules.

The CHAIRMAN: The Chair recognizes the gentleman from Enfield, Representative Dudley.

Mr. DUDLEY: Mr. Chairman, Members of the Convention: I am really being annoyed. It seems like I am amongst a bunch of children. I don't care if ten people watch me put that ballot in that box. I am going to put it in upside down anyway.

The CHAIRMAN: The Chair recognizes the gentleman from Lewiston, Representative Jalbert.

Mr. JALBERT: Mr. Chairman, it may be inconsistent, but when the first vote was 94 to 90, I would have been delighted if you had given the opposition party another vote and taken one from the 94 and made it 93 to 91. That would have been all right.

All I hear about is fair play, this and that and the other. I am not accusing anybody of anything. I just don't want anybody peeking at my ballot, that is all. I want a secret ballot. That is what the rules say. I am not asking to change the rules. Show me where it says that you can't do it the way I am saying we should do it.

What do you do when you go to vote in an election for yourself, for Governor, for President — do the ballot clerks and the warden and the ward clerks follow you in and take a peek at what you are doing? Do you just go in that box with a curtain, cast your ballot, come out and they write off your name and you put your ballot in the box. Nobody knows how you are voting; that is all I want. I want a secret ballot. I love you Mr. Chairman, but I don't even want you to look at my ballot, and you know how I am going to vote. That is all I want, a secret ballot a simple thing.

The CHAIRMAN: The Chair recognizes the gentleman from Kennebec, Senator Katz.

Mr. KATZ: Mr. Chairman, joint leadership has been working on these rules to develop an orderly, dignified procedure. The procedure was outlined by the President of the Senate as part of our rules. There are no partisan implications here. The President had suggested to you that the election of constitutional officers is a responsibility not widely shared and he asked for us to live up to our responsibilities and asked each of us to be a model of decorum. This isn't a circus; there are no partisan advantages. For heaven's sake, we have adopted the rules. There is no advantage to one party or the other. Please, let's conduct our convention with some decorum.

The CHAIRMAN: The Chair recognizes the gentleman from Lisbon Falls, Representative Tierney.

Mr. TIERNEY: Mr. Chairman, Members of the Convention: The answer to my question has not been answered. I am asking for the rule which we adopted that would be violated by the procedure suggested by the gentleman from Lewiston, Mr. Jalbert.

Perhaps, Mr. Chairman, as chairman you could cite the rule as to whether suspension would be necessary.

The CHAIRMAN: The procedure that has been suggested by Representative Jalbert will be adopted.

The membership will file in sections from the right of the chamber through the alley. The Speaker and myself will pass out the printed ballots. The Speaker will be passing out the ballots for Mr. Palmer and I will be passing out the ballots for Mr. Quinn, and the membership will then file around the corner and drop one ballot into the box which will be stationed right in front of the podium.

The CHAIRMAN: The Chair recognizes the gentleman from Cape Elizabeth, Representative Masterton.

Mrs. MASTERTON: Mr. Chairman, I would like to pose a question. What would prevent an individual from putting both his ballots into the ballot box if nobody is standing over and inspecting?

We vote in our local districts and there is a clerk watching us as we put our ballots into the box. What would prevent another disaster with 190 votes? See what I mean?

The CHAIRMAN: The Chair would advise the gentleman that there must be a great amount of personal integrity within this body and the Chair would certainly hope and expect that there will be no more, if there had been any, no more tampering with the election procedure.

The Chair recognizes the gentleman from Limerick, Representative Carroll.

Mr. CARROLL: Mr. Chairman, Members of the Convention: Perhaps, they recognize, as I do, that there was something wrong, that you had an extra ballot, and 20 years from now, if I am alive, I will have to tell my grandchildren what a sorry spectacle this was.

A vote of the Convention was taken. The votes having been sorted and counted, the Chair reported the following:

Total number of votes cast	183
Necessary for choice	92
Rodney S. Quinn had	92
Linwood E. Palmer, Jr.	91

Rodney S. Quinn having received a majority of all votes cast, was declared elected Secretary of State for the State of Maine for the political years 1979 and 1980.

The CHAIRMAN: Nominations are now in order for the office of Treasurer of the State of Maine for the political years 1979 and 1980.

The Chair recognizes the gentleman from Old Town, Representative Gould.

Mr. GOULD: Mr. Chairman, Members of the Convention: I nominate Jerrold B. Speers for the office of Treasurer of the State of Maine for the political years 1979 and 1980.

Jerrold Speers has served the state government and the United States government well for the past decade. He is known for his honesty and his integrity. He was Secretary of the Senate from 1967 to 1969; special assistant to the U. S. Department of State, 1969 and 1970; Assistant Attorney General for Maine, 1971 and 1972; a Senator for the last three terms, two of which he was Majority Leader of the Senate. He is a partner in an Augusta law firm, a graduate of Colby College and Georgetown University Law School. He is well versed in the arts and architectures of government, both state and federal, and it is with a great deal of pride and pleasure that I nominate Jerrold B. Speers for the office of Treasurer of the State for the political years 1979 and 1980.

The CHAIRMAN: The Chair recognizes the gentleman from Kennebec, Senator Pierce.

Mr. PIERCE: Mr. Chairman, Members of the Convention: I am pleased to second the nomination of Jerrold Speers as Treasurer.

The CHAIRMAN: The Chair recognizes the gentleman from Auburn, Representative Hughes.

Mr. HUGHES: Mr. Chairman, Members of the Convention: Two years ago, the Joint Convention of the 108th Legislature elected as the Treasurer of the State of Maine a young man known to us to possess great integrity, judgment and intelligence.

He had had three terms of experience in the legislature, serving here in the House of Representatives. He had served as Chairman of the State Government Committee and overseeing the legislation which completely reorganized the Executive Branch of government in the state, so he had a thorough grounding and thorough knowledge of state government.

But there were those who say that we should have elected at that time somebody of financial background, more adept in the area of finance. The majority of the convention at that time said, essentially, that a good person, a person of integrity, a person of judgment, can serve well in any office of distinction when backed by a competent staff.

In the last two years, I think we have seen the wisdom of that decision.

The state debt, during these two years, has declined by \$15 million. The interest rates paid by Maine people on that debt have declined by \$1 million. The bonding rate of the state at the time the Treasurer took office was a very shaky, Double "A" rating. It had dropped from Triple "A" to Double "A" and was in danger of dropping further. That Double "A" rating has been sured up in the last two years to the point now where most experts would say that we are right on the verge of regaining our Triple "A" rating. Those are actions which are the result of cooperation among the Governor, the Treasurer, the Legislature, all of those who play a role in creating the fiscal climate in this state.

This Treasurer, however, became the first Treasurer in the history of this state to put the state's checking accounts out to competitive bidding. There were four major checking accounts and the banks which carry those accounts are compensated by the amount of compensating balances carried in each account, the amount of money which must lie idle in those accounts to compensate the banks. In all four accounts, that compensating balance has been lowered through competitive bidding by a total of \$5 million. That is \$5 million of the Maine people's money no longer lying idle; in fact, being able to be put out for short-term loans to draw interest for Maine people. In fact, the result of these policies is that this last year will set records in the amount of money earned in short-term investments of the state's money.

I think if you have seen the Treasurer around the State House corridors the last couple of days, you probably noticed the sling on his arm and mangled fingers underneath those casts. I think out of compassion most of us would not hire him to service our snowblowers, but I think, too, our judgement of the last two years would indicate that we ought to, indeed, hire him for two more years as the Treasurer of the State of Maine. Therefore, I am pleased and honored to nominate for reelection as Treasurer the Honorable Leighton B. Cooney.

The CHAIRMAN: The Chair recognizes the gentleman from Owl's Head, Representative Post.

Mrs. POST: Mr. Chairman, Members of the Convention: I think there is no state office where non-partisan conduct is more important than in the management of the state's money. Leighton Cooney, during his term of office, used one maxim in deciding how that money was going to be managed and that was in the interest of the State of Maine. I think that using that type of philosophy has shown in the much better position that the state is in financially than we were two years ago.

What do we know about the man who has served in the Treasurer's seat for two years? We know that he has a proven investment record; we know that he has been able to move



us from a shaky bond "A" rating, which is so important in what it costs us to put out bonds.

We know that he has been interested in how pending legislation will affect the bond ratings of the State of Maine in our total financial picture. Many times I have talked with him on how different types of legislation, be it school construction or other types, might affect the bond rating of Maine.

We know that he not only has the respect of people within the state but has gained the respect of his peers, because he was very recently re-elected as the Regional Vice President for the National Association of State Treasurers. He has been able to do all this in the brief time of two years. I think that that deserves another two years and I am very proud to second the nomination of Leighton Cooney.

Mr. Pierce of Kennebec moved that nominations cease.

The CHAIRMAN: The Chair recognizes the gentleman from Farmington, Representative Morton.

Mr. MORTON: Mr. Chairman, Members of Convention: When we voted last time, I noticed that quite a few members folded their ballots or crumpled them when putting them in. I thought the instructions were to not fold the ballots. There were quite a few folded ballots last time. Also, there was a checkoff missed and I think we should be extremely careful in checking.

The CHAIRMAN: The Chair thanks the gentleman for his suggestion. I would again urge the members not to fold their ballots. It would expedite the counting procedures very much.

A vote of the Convention was taken. The votes having been sorted and counted, the Chair reported the following:

Total number of votes cast	183
Necessary for choice	92
Jerrold B. Speers had	94
Leighton B. Cooney	89

Jerrold B. Speers having received a majority of all votes cast, was declared elected Treasurer of the State of Maine for the political years 1979 and 1980.

The CHAIRMAN: Nominations are now in order for the office of Attorney General of the State of Maine for the political years 1979 and 1980.

The Chair recognizes the gentleman from Farmington, Representative Morton.

Mr. MORTON: Mr. Chairman, Members of the Convention: I have the honor and privilege of placing in nomination as the unanimously selected candidate at the Joint Republican Caucus of this 109th Legislature the name of Richard S. Cohen of Augusta for the post of Attorney General.

My party's candidate has proven ability as an attorney. Dick Cohen's name is well known in the halls of our highest courts because it is there that he has made his mark as Maine's Chief Criminal Prosecutor, and it is there that he has acquired experience in all aspects of complex litigation, experience that is available in no other way.

He also has working experience in the Bureau of Taxation and other civil areas that have been acquired during his 15-year career in the Attorney General's Department. He has had extensive liaison with Legislative and Executive Branches of government both at the state level and at the federal level in the development of legislation and policies, participating on a regular scheduled basis in the U. S. Justice Department and the Council of State Governments.

Richard Cohen's candidacy is founded on an unassailable basis of technical expertise. More than that, however, he brings before this combined body a unique characteristic in that he is a man of the office. He has observed from the inside the most effective means of characterizing, developing and implementing policies and positions of the Attorney General's Office.

In his last eleven years, he has been in a chief administrative capacity, having been given the initial responsibility for carrying out the 1967 legislative mandate for the formation of a criminal division with the department. His talents for administration have brought that division to its present high state of excellence, and increasingly over these last years, he has been included in the highest levels of department policy and decision making. His extensive experience as he has interacted with all levels of government provide him with the essential political background to be an effective Attorney General, but Dick Cohen is a lawyer first and a politician second, reflecting the desire of the people of Maine that excellence is the paramount criterion for such a high position of trust.

I am, therefore, pleading with all of you, my colleagues, regardless of which side of that figurative aisle that you may sit on, to step away from political tradition, to reward excellence, to recognize a man who has come up through the ranks, to put your faith in the future of Maine's legal life, during these next two years at least, in the hands of a proven professional, Richard Stockman Cohen of Augusta, the next Attorney General of the State of Maine.

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

Mr. HICHENS: Mr. Chairman, Members of the Convention: I have served in the state legislature for twelve years. During that time, I have had close association with the Attorney General's Department and I learned very early in my terms, as I went to the Attorney General, that I was liable to be sent to see Mr. Cohen. All four Attorneys General whom I have served with have the highest esteem for Mr. Cohen and I have learned to have that same esteem for the office which he holds and I now hope for the office that he is going to hold.

I know that Dick Cohen is going to be a man who will work along with and for everyone whom he represents, and I am certainly pleased to second his nomination.

The CHAIRMAN: The Chair recognizes the gentleman from Cumberland, Senator Conley.

Mr. CONLEY: Mr. Chairman, Members of the Convention: It is my pleasure here today to place in nomination the name of a very good friend of mine from the City of Portland, the Honorable Philip L. Merrill.

Philip Merrill came to the legislature four years ago. He distinguished himself in his first session as a member on the Taxation Committee and also on the Judiciary Committee. He worked diligently for two years following, working on the Criminal Code and interesting and difficult bills that came before the legislature.

I don't believe that in the 16 years I have served in the legislature that I have seen an individual who has been so able to conduct himself in a manner within the Senate body in debating any legislation to be able to convince, most of the time, the majority of that body the weaknesses or the strengths of certain legislation that came before them.

I have known Phil Merrill for a number of years. He is a proud man, he is a fine father, an excellent husband, and I think he is worthy and deserving of your support here today.

I know that in the years I have served with him in the Senate, I can think of no individual who handled himself in such a fine way that he wasn't both honored and distinguished by members of that body. I think he would make an excellent Attorney General, and I ask you support for him in this nomination.

The CHAIRMAN: The Chair recognizes the gentleman from Vassalboro, Representative Mitchell.

Mrs. MITCHELL: Mr. President, members of the Joint Convention: I am not making a great over-statement when I say the next decision you make will be one of the most critical ones that you are going to make in your term

here in this legislature. You are going to be making laws, and those laws will be subject to interpretation by the Attorney General of this State.

Now, as the wife of a lawyer, I can tell you that there are plenty of lawyers around and there are plenty of good lawyers around, but we are not looking just for a lawyer to serve in the post of the Attorney General of the State of Maine. We don't need just a technician, because there are 56 other attorneys general who will be working under the Attorney General. Nevertheless, the man that I support has the legal skills if we are just looking for a technician. But I submit to you that we are looking for a philosophy, a philosophy of government, and the man that I second has spent four years of public service proving his ability on the Judiciary Committee, proving his excellent grasp of the laws to the point that the Supreme Court agreed with him on the reasoning behind there not being a solemn occasion. Read the record sometime and you will get a grasp of his ability to deal with intricate, complex laws.

In the legislature, this man has worked on the criminal code revision, the real tax reform, lobbyist disclosure. He even set up a committee to do away with obsolete laws, ridding the Maine statutes of over 200 laws no longer needed. This is a man who can deal with both the legislative and the judicial branch, a man that we can all be proud to work with as the Attorney General.

I am proud to second Phil Merrill for the Attorney General.

Senator Katz of Kennebec then moved that the nominations cease.

A vote of the Convention was taken. The votes having been sorted and counted, the Chair reported the following:

Total number of votes cast	183
Necessary for choice	92
Richard S. Cohen had	96
Philip L. Merrill	87

Richard S. Cohen having received a majority of all votes cast, was declared elected Attorney General for the State of Maine for the political years 1979 and 1980.

On motion of Senator Katz of Kennebec, it was

ORDERED, that the Secretary be directed to notify the Honorable Rodney Quinn of his election as Secretary of State; the Honorable Jerrold B. Speers of his election as State Treasurer; and the Honorable Richard S. Cohen of his election as Attorney General.

Subsequently, the Secretary reported that she had notified the officers as directed.

Senator Pierce of Kennebec was granted unanimous consent to address the Convention.

Mr. PIERCE: Mr. President and Members of the Convention: I am sure we are all very anxious to get out of here tonight, but I just want to take, before I present the final order, just a couple of brief moments to express and share a couple of thoughts with you.

These last two days have been very frustrating ones for many of us, and I guess I would address these remarks primarily to the new people here. The other ones have been around long enough to have seen it work and not work and so on.

These have been two very special days for the beginning of a session. One thing you will find when you are here and you get involved in this process is that you win some, you lose some. You will find that neither party has a monopoly on the good people, the bright people, the hard-working people, but you will find that there are an awful lot of people here, almost to the person, who have given up a lot of their time, they give up financial considerations to be here and they give up family obligations many times. And as frustrating as this must have been to you these last two days, I would just hope that you would now put these two behind

you and remember that there is only one place that you have to look around here, and that is ahead, because you are going to find, I think, that as we get on with the business with which we were all charged by the public, it is a great process, and I will promise you one thing, that before you get through here, you are going to be very, very happy that you are an elected official of the State of Maine, and I think you are going to be very proud of it at the same time.

---

On motion of Mr. Pierce of Kennebec, it was ORDERED, that the Secretary be directed to inform the Governor of the election of the Honorable Rodney Quinn as Secretary of State; the Honorable Jerrold B. Speers as Treasurer of State; and the Honorable Richard S. Cohen as Attorney General.

The Secretary delivered the message subsequent to the Joint Convention.

---

The purpose for which the Joint Convention was formed having been accomplished, the Chair declared the same dissolved.

The Senate then retired to its Chamber amid the applause of the House.

---

**In The House**

The House was called to order by the Speaker.

---

On motion of Mr. Vincent of Portland,  
The House adjourned until four-thirty in the afternoon.