

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Ninth  
Legislature***

OF THE

**STATE OF MAINE**

**Volume I**

**FIRST REGULAR SESSION**

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

## HOUSE

Thursday, March 8, 1979

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Reverend Stephen Holmes of the Congregational Church, Winthrop.

Rev. HOLMES: I must first tell you that the greatest pleasure that an awaiting House Chaplain can have after sitting for an hour is pushing the bell. Thank you, Mr. Pert.

Let us pray! Gracious Lord, help us to listen to the feelings of our friends; help us to listen to the anxieties and joys of our families; help us to listen to the ideas, hopes and aspirations of those whom we represent. Help us to listen. It is only when we listen with the heart that we discern rightly, for truth is neither seen with the eyes nor heard with the ears. Gracious God, help us to listen. Amen.

The journal of yesterday was read and approved.

## (Off Record Remarks)

On motion of Mr. Kane of South Portland, Recessed until the sound of the gong.

## After Recess

11:35 A.M.

The House was called to order by the Speaker.

The following Joint Order appearing on Supplement No. 1 was taken up out of order by unanimous consent:

On Motion of Mr. Martin of Eagle Lake, the following Joint Order (H. P. 897) (Cosponsors: Mrs. Mitchell of Vassalboro, Mr. Garsoe of Cumberland, and Mr. Tierney of Lisbon)

ORDERED, the Senate concurring, that the Joint Rules be amended by adding at the end of Joint Rule 6, the following new paragraph:

Where one House has passed upon a legislative paper and forwarded it to the other, the receiving House shall promptly, upon receipt, place that paper on its calendar; and be it further

ORDERED, that the Joint Rules be further amended by adding a new Joint Rule 35-A to read as follows:

35-A. Actions relating to the United States Constitution. Commencing with the second regular session of the 109th Legislature, all memorials, resolutions, applications and petitions which relate to the Legislature's functions under the United States Constitution, Article V, shall be in order for introduction without approval from the Legislative Council. Passage of these items shall be accomplished as follows:

1. Any item requesting the calling of a United States Constitutional Convention shall require a two-thirds vote of the members present in each House;

2. Any item requesting ratification of an amendment to the United States Constitution shall require a majority vote of the members present in each House; and

3. Any item requesting any other action under the United States Constitution, Article V, shall require a majority vote of the members present in each House.

The Order was read.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: I am in a rather embarrassing situation this morning, not to the members of my caucus but to my friends in the Democrat caucus. I had agreed last night, as part of a resolution that was put before my caucus this morning, to cosponsor this measure. We have just finished an hour and a half of one of the best caucuses I guess I have ever participated in, in which an overwhelming majority of the caucus directed me to disassociate

myself from this endeavor and, frankly, put me in the position of being forced to oppose this measure and, if I may continue, Mr. Speaker, to present on behalf of my caucus an order adding a joint rule which would accomplish the first section that you find on this paper, that setting up a new Joint Rule 6.

So, I am going to ask for a division, Mr. Speaker, and hope that this explanation suffices to let my colleagues in the Democrat leadership understand the circumstances that force me to willingly, but, nevertheless, force me to take this action.

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

Mr. TIERNEY: Mr. Speaker, Men and Women of the House: I guess it is, indeed, disturbing when a leader's position and good faith efforts for settlement of a complex problem are rejected by his own caucus, and I can certainly sympathize with the good gentleman from Cumberland and state my disappointment.

I guess the problem is that there is nothing wrong with this order. If you will read it, it makes good sense, it makes good government. It provides for us to establish a permanent rule in regard to dealing with amendments to the United States Constitution in a fair, open manner, effective at the beginning of the second regular session of the 109th Legislature. I would like to have that section, that amendment to 35-A, effective immediately, but at the behest of members of the Republican Party saying that that would be changing the rules in the middle of the game, I backed off that position and said, "Fine, we will make this excellent rule available in the future."

Now the question of putting a paper on the calendar — again a negotiated settlement. It is a good rule. It is a chance to take care of a problem which many of us feel has taken so many years.

There is nothing wrong with this, ladies and gentlemen of the House, nothing at all, except for one thing, and this is that evidently the overwhelming members of the Republican Party don't want to debate this constitutional convention after all. And all the rhetoric we have heard in the newspapers and all the headlines written by my good friends in the press aren't worth the paper they are printed on, because, ladies and gentlemen, this is the means to have the issue put before us this very morning.

Make no mistake about it, no member of Democratic leadership is going to change his vote under the current Rule 35 to let that come up. This is the means to proceed, it is here, it is in your hands. So the political game is now complete and out in the open, and I think that maybe, just maybe, people in this state are going to understand that.

The ultimate trump card is played — the settlement reached — the settlement broken — nothing wrong with this order. I am going to vote for it and I hope you, regardless of your political affiliations, will vote for it too, because it is good government.

Mr. Martin of Eagle Lake requested a roll call vote.

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

Mr. GARSOE: Mr. Speaker and Members of the House: I am sure the gentleman from Lisbon Falls, Mr. Tierney, misspoke himself when he phrased this as "an agreement made — an agreement broken," because we were very meticulous to let our Democratic colleagues know last night that we were in agreement and we portrayed this to our caucus today and attempted to sell it. We were in agreement with them on the tentative proposal. He knows it was tentative. There is no aspect of any agreement being broken.

This was taken to our caucus. We made a good-faith effort to sell it to our caucus and the caucus rejected it. It is as simple as that.

The SPEAKER: The Chair recognizes the gentleman from New Gloucester, Mr. Cunningham.

Mr. CUNNINGHAM: Mr. Speaker, Ladies and Gentlemen of the House: Someone has questioned whether there is anything wrong with the order. Well, I think there is something wrong with the order. I think it is wrong when one body cannot receive the papers of the other body. I think it is right when we enforce in Joint Rule 6 acceptance of papers of the other body. I think that is the way that the two bodies can work together.

I think it is wrong when the Majority Leader says, "We won't vote for something under the present rules, but we will change the rules." This is just like your basketball games, we honor basketball champions. They decide to play an extra two minutes so that the score will go a different way, and they find all other ways to change the rules because the game isn't going according to a particular game plan.

I think common sense, decency in working the two bodies, one from the other, dictates that Rule 6 is a good rule and that any changes in the other rules could wait for any time in the legislative session.

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mr. Gray.

Mr. GRAY: Mr. Speaker, Men and Women of the House: I think there is another item that should be mentioned in regard to this joint rule. I certainly agree that it should take a two-thirds vote to amend our own State Constitution, but we have to bear in mind that it takes a two-thirds vote of all the states, or two-thirds of the states to call a constitutional convention. This rule, in effect, would dilute Maine's ability to participate nationally with the other states and then, in effect, weaken Maine's position to influence national policy.

I am sure that nobody would suggest that we do away with one of our congressional seats, but I see this almost in the same terms, so this is why today I am going to oppose this joint rule.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I commend my good friend Mr. Tierney for attempting to turn the tide today and accuse us, the Republican Party, at least, of not wanting to debate the issue. I think it is clear that the Republican Party does want to debate the issue, but we don't want to debate the issue after we have changed the rules of the game. And what we are saying here today is, we might be able to debate this issue under suspension of the rules if we will change the other rules down the road for making application for a constitutional convention from a simple majority to two-thirds. I think that is the issue here today and that is the issue that struck across the bounds of our caucus. We felt that we should be able to simply take a paper from the other body and bring it in here and dispose of it properly — yes, no, or have it ruled out of order, one way or another, without changing the rules for application, without including memorials in Joint Rule 35-A, without a whole bunch of other things that seem unnecessary and a bit frivolous at this time.

I would hope you would go along and not support this amendment today to our rules so that we might offer a more simple and more concrete way of dealing with this issue.

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

Mr. JALBERT: Mr. Speaker, before I speak, I would like to make a parliamentary inquiry. Would this have to be tabled, in any event, for one legislative day?

The SPEAKER: The Chair would advise the gentleman from Lewiston, Mr. Jalbert, that any amendment to the House Rules provides for the tabling for one legislative day. The Joint Rules do not carry that connotation.

The gentleman may proceed.

Mr. JALBERT: Mr. Speaker and Members of the House: A great many of us have gotten information from this proposition in bits and pieces. I have gotten it by going to you yesterday and asking you if I could go to the Republican caucus and listen to their version. I went into a meeting that I was invited to the day before. I listened to a version again, and I have listened to a version from some leaders from out of this compound of the legislature, and I have listened to your argument and, really and truly, every time that I have come away, I have come away with doubts in my mind. I was at a point where at a Democrat caucus I somewhat termed this whole procedure "distorted nonsense" and somewhere along the line I am becoming more convinced that I might be right.

Now, this to me is a very important matter. Both leaders have spoken on this eloquently, and leaders of the other branch have done the same. I think somewhere along the line there has been a little rhetoric that might have been done away with, but I think that the gentleman from Lisbon Falls, Mr. Tierney, touched on a very important point today when he stated at our caucus that 20 states had allowed this to go under the hammer without a word of debate. As a matter of fact, whether some of you are aware of it or not, two years ago, a former president of a senate in one state wanted this taken up and he was told that he presented it two years before when he was president of the senate, and he is now governor, and it went under the hammer.

I have listened to so many points and so many discussions about this, but I look upon this, in my humble opinion, as a very serious piece of legislation.

I don't get myself involved too much in these things. I kind of wait around for money matters, and I think probably it might be a good or bad idea to do so, but I think probably some of us should relegate ourselves to listening to moose debate, particularly when we might never have seen one, and others ought to listen to us when something comes up concerning monetary matters.

This thing here, there is one segment of the people who have not been heard, and I consider this a piece of legislation, and I would like to see them be heard. My humble suggestion, which will fall on deaf ears, I know, but it is only my opinion, is that we should start going the route. You made an agreement last night, the leadership of the friendly opposition agreed to it, and all at once we get out of the caucus this morning, we think we are home free and all at once the whole thing has gone upside down over on the other alley.

I think, frankly, what we ought to do with this thing is, why don't we do the right thing. This is purely and simply a bill, in my opinion. Why don't we take these rules, do something about them, pass them or not pass them, but the last deal, just refer it to the proper Judiciary Committee, have a public hearing on it and then come right out and debate it on the floor of the House like we do everything else.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I feel that today we as individuals must realize one thing, that we should have a right to vote on any issue that comes before this body when it comes from the other body, and they should have the same rights.

I know that a lot of times we have, for example, a bill come before this body that I don't like, but I don't try to stop that bill; I have it heard.

We have got creepy-crawler bills that I am very much opposed to; yet, I don't try to stop them. I think when individuals in this House, like the Speaker of this House, tries to stop things from going in this House, then we should take action opposed to it.

The rest of this order that we have before us today, I would certainly hope that we would dump the whole thing. I stand not alone, but I stand because of the rights of each and every one of us. You know, we all have rights on the outside, but when we get in here we don't have those rights, we begin to lose those rights, we begin to bicker, the Republicans against the Democrats.

We are supposed to come in this hall and forget what party we belong to when bills or anything else come before this body. We should have that right whether we agree with it or whether we don't agree with it, that is not the issue. The issue is to have each and every thing debated in the proper manner.

I won't agree with you all the time and you won't agree with me. I don't agree with the Speaker all the time and he doesn't agree with me, but I would hope that we would hold the respect and the dignity of each other that when we are on the floor of this House, we will try to act like gentlemen. Sometimes I realize that I don't and I accept that responsibility, but to let anything come from the other body and not act on it is an infringement on our elected representatives by the people of this State.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: Irrespective of the merits or demerits of this Joint Order to change the rule which is pending before us now, in all fairness to all the members of the House, I should point out that this particular document that we have before us is simply one ingredient of an overall package that members of both party leadership attempted to put together to resolve the parliamentary stalemate that we found ourselves in over the last couple of weeks.

We took not only this document but all ingredients of the entire Resolution package before my caucus today and my caucus overwhelming repudiated that package to resolve this question on this particular Resolution.

My caucus has instructed me, as a result of that, to oppose not only this particular measure before us, which is only one part of the entire package, but to also oppose the entire package. For that reason, I will go along with my caucus in opposing this particular Joint Order today.

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

Mr. HOWE: Mr. Speaker, Members of the House: Let me say, first of all, as a member of the Democratic Party in this House, that I don't believe that Mr. Garsoe and Mr. Tarbell broke a deal. I think we all understand, I know my leader understands, no matter how it may have sounded to Mr. Garsoe—he said that they were going to have to sell it to the Republicans in their caucus and failed to do that and that certainly happens to our leaders now and then.

As far as the content of Item 4-1 on the Calendar, I think all of those items are appropriately before us, including the first one, because events of the last several weeks just put all of these issues before us and all of the issues before the citizens of Maine, not just the issue of whether an item from the other body should be placed on the calendar in this body, and I agree that it should.

I haven't been a legislator all that long but certainly while I have been here and perhaps while any of you have been here, you have not been asked to vote on a Resolution calling for a Constitutional Convention before—perhaps you have. There was an attempt following the Supreme Court's decision in 1964 to provide for a one-man, one-vote in this country, to overturn that through a Constitutional Resolution, which should have ultimately ended in a convention. I don't know whether that reached the Maine legislature, but, in any case, the question of how we deal with addressing a federal constitutional convention is before us and I think it is appropriate to deal with it today.

I remember when the issue of the impeachment of former President Nixon was raised and in some manner it was raised in this legislature. Somebody came up here and urged that we not do it because we were fooling around with a very rusty cannon that had never been fired. I submit that we have another one of those that hasn't been fired for almost 200 years and the consequences are great that the thing might blow up in our face.

As one who has long supported civil liberties and worked in that field every day of my life for several years, I am concerned about the possibility of calling a convention that might ultimately wipe out some of those civil liberties and I think before we do anything that could bring such a convention about, that it ought to be more than a simple majority vote in this legislature or any other legislature. That is why I feel the requirement of a two-thirds vote, and I wish it were already in place, is an appropriate one to not only consider but to enact today.

I feel the other issues are equally appropriate for consideration because, as I say, the events of the last several weeks, I think, have forced us all to consider these issues and we are able to act on those issues today with Item 4-1 before us and I intend to support it.

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker, Members of the House: I move indefinite postponement of this order or any other order that changes the rules in the middle of the ballgame.

I think the proper manner is the way it used to be done, and I am satisfied that that way was all right, it has to have two-thirds too, I think, to suspend the rules of this House. If there is a rule that we can't live by, let's have a vote to suspend the rules, we either do it or we don't. This order isn't going to pass because it has to have two-thirds anyway, so why fool around and talk all the forenoon when we have other work to do? I move indefinite postponement of this Order and get on with the business of the day.

Mr. Martin of Eagle Lake requested the vote be taken by the yeas and nays.

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 East Millinocket, Mr. Birt.

Mr. BIRT: Mr. Speaker, a parliamentary inquiry? I think there have been two or three actions that have happened this morning that I have never seen done before and that is motions from the Chair. Are motions made from the Chair legitimate or should they be made from the floor? It is my understanding of parliamentary law that the presiding officer, that is what his position is, he presides and does not make rulings from the Chair.

The SPEAKER: The Chair would inform the gentleman from East Millinocket, Mr. Birt, that the decision has been made and as a result cannot be challenged.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Enfield, Mr. Dudley, that the Order be indefinitely postponed. Those in favor will vote yes; those opposed will vote no. The Clerk will call the roll.

#### ROLL CALL

YEA — Aloupis, Austin, Birt, Bordeaux, Boudreau, Bowden, Brown, D.; Brown, K. L.; Bunker, Call, Carter, D.; Carter, P.; Churchill, Conary, Cunningham, Damren, Davis, Dellert, Dexter, Drinkwater, Dudley, Fenlason, Fillmore, Garsoe, Gavett, Gillis, Gould, Gowen, Gray, Hanson, Higgins, Huber, Hunter.

Immonen, Jackson, Kelleher, Kiesman, Laffin, Lancaster, Leighton, Leonard, Lewis, Lougee, Lowe, Lund, MacBride, Marshall, Martin, A.; Masterman, Masterton, Matthews, McMahon, McPherson, Nelson, A.; Payne, Peltier, Peterson, Reeves, J.; Rollins, Roope, Sherburne, Silsby, Small, Smith, Sprowl, Stetson, Stover, Strout, Studley, Tarbell, Torrey, Twitchell, Wentworth, Whitemore.

**NAY** — Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Berube, Blodgett, Brannigan, Brennerman, Brodeur, Brown, A.; Brown, K. C.; Carrier, Carroll, Chonko, Cloutier, Connolly, Cox, Curtis, Davies, Diamond, Doukas, Dow, Dutremble, D.; Dutremble, L.; Elias, Fowlie, Gwadnosky, Hall, Hickey, Hobbins, Howe, Hughes, Jacques, E.; Jacques, P.; Jalbert, Joyce, Kane, Kany, LaPlante, Lizotte, Locke, MacEachern, Mahany, Maxwell, McHenry, McKean, Michael, Mitchell, Morton, Nadeau, Nelson, M.; Nelson, N.; Norris, Paradis, Paul, Pearson, Post, Prescott, Reeves, P.; Rolde, Simon, Soulas, Theriault, Tierney, Tozier, Tuttle, Vincent, Violette, Vose, Wood, Wyman, The Speaker.

**ABSENT** — Hutchings, McSweeney, Sewall.

Yes. 74; No. 74; Absent. 3.

The **SPEAKER**: Seventy-four having voted in the affirmative and seventy-four in the negative, with three being absent, the motion does not prevail.

The Chair recognizes the gentleman from Cumberland. Mr. Garsoe.

Mr. **GARSOE**: Mr. Speaker, an inquiry. Doesn't this take a two-thirds vote?

The **SPEAKER**: The Chair would advise the gentleman, as he advised him last evening, that when you are adding a new rule that it takes a majority vote.

Mr. **GARSOE**: Mr. Speaker, I see this reading in two places, "amendment."

The **SPEAKER**: The Chair would advise the gentleman, as long as we are not amending an existing rule and the language thereof, it requires a majority vote.

Mr. **GARSOE**: Mr. Speaker, that is not the understanding I had last night - this was to be a two-thirds vote requirement. That was the understanding last night. I think the language is very clear that you are amending Joint Rule 6 by adding the following language.

The **SPEAKER**: You are adding a new section. The Chair would advise the gentleman that if he were removing rules and words in the rules, then, of course, you would need, at that point, a two-thirds, because in effect you would be suspending. The rules dealing with suspension require a majority vote and the parliamentary method for that is really quite simple. It is based on the presumption that a legislative body may at any time add or subtract from its rules.

Mr. **GARSOE**: Mr. Speaker, I still further insist that we are amending the rules, changing the structure of Rule 35 and we are expanding the structure of Rule 6 and that can only be an amendment.

The **SPEAKER**: The Chair would advise the gentleman in the affirmative, that we are amending it.

The Chair would advise the gentleman from Cumberland, Mr. Garsoe, that as long as we aren't removing an existing rule and changing that existing rule, it is by majority vote. If we are suspending a portion of the existing rule, then it is by two-thirds vote. To do otherwise, would be to contradict the powers of a legislative body.

Mr. **GARSOE**: Mr. Speaker, I believe I did ask for a division. I would like to have a roll call.

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

Mr. **JALBERT**: Mr. Speaker, Members of the House: I move that this item be tabled for

one legislative day and ask for a roll call.

The **SPEAKER**: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. **HIGGINS**: Mr. Speaker, I was going to ask for it to be tabled until later in today's session. Does that take precedent?

The **SPEAKER**: The Chair would answer in the negative.

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

Mr. **GARSOE**: Mr. Speaker, I rise to see if the House would give me the privilege of withdrawing my request for a roll call?

The **SPEAKER**: The Chair would advise the gentleman from Cumberland, Mr. Garsoe, that it makes no difference at this point since we are not on that motion. He may do so, withdraw his request for a roll call, if we get back to that question.

The **SPEAKER**: The Chair recognizes the gentleman from Yarmouth, Mr. Jackson.

Mr. **JACKSON**: Mr. Speaker, I would pose a question to the Speaker. Do we have any idea how long this is going to take to fix the roll call machine?

The **SPEAKER**: The Chair would answer in the negative.

The Chair recognizes the gentlewoman from Auburn, Mrs. Lewis.

Mrs. **LEWIS**: Mr. Speaker, I wonder if we could have roll call sheets distributed to us so that we can check them off ourselves?

The **SPEAKER**: The Chair would advise the gentlewoman that we will see what we can do.

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. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken, and an insufficient number having requested a roll call, a roll call was not ordered.

The **SPEAKER**: The Chair will order a vote. The pending question is on the motion of the gentleman from Lewiston, Mr. Jalbert, that this Order be tabled pending passage and tomorrow assigned. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

80 having voted in the affirmative and 65 having voted in the negative, the motion did prevail.

(Off Record Remarks)

On motion of Mr. Tierney of Lisbon Falls, recessed until four-thirty o'clock in the afternoon.

#### After Recess

4:30 P. M.

The House was called to order by the Speaker.

#### Papers from the Senate

The Following Joint Order, An Expression of Legislative Sentiment recognizing that:

The Eagles of George Stevens Academy have won the State Class C Basketball Championship for the academic year 1979 (S. P. 336)

Came from the Senate Read and Passed.

In the House, was read and passed in concurrence.

Bill "An Act to Establish a Special License for Retired or Inactive Pharmacists" (S. P. 331) (L. D. 965)

Came from the Senate referred to the Committee on Business Legislation and ordered printed.

In the House, was referred to the Committee on Business Legislation in concurrence.

Bill "An Act to Prohibit Out-of-State Contributions for Candidates for State or Certain Federal Offices" (S. P. 332) (L. D. 966)

Bill "An Act to Prohibit any Constitutional Officer from Running for a Statewide or Feder-

al Office during his Term" (S. P. 333) (L. D. 968)

Came from the Senate referred to the Committee on Election Laws and ordered printed.

In the House, were referred to the Committee on Election Laws in concurrence.

Bill "An Act to Provide Assistance to Certain Elderly Persons Needing Dentures" (S. P. 325) (L. D. 955)

Bill "An Act Relating to Dental Health" (S. P. 330) (L. D. 964)

Came from the Senate referred to the Committee on Health and Institutional Services and ordered printed.

In the House, were referred to the Committee on Health and Institutional Services in concurrence.

Bill "An Act to Amend the Law Regarding the Decibel Levels of Motorcycle Mufflers" (S. P. 334) (L. D. 969)

Came from the Senate referred to the Committee on Transportation and ordered printed.

In the House, was referred to the Committee on Transportation in concurrence.

#### Non-Concurrent Matter

Bill "An Act to Establish a Demonstration Project to Create a Grant and Loan Program to Assist Older Citizens in Purchasing Medically Prescribed Eyeglasses, Dentures and Hearing Aids" (H. P. 683) (L. D. 907) which was referred to the Committee on Aging, Retirement and Veterans in the House on March 2, 1979.

Came from the Senate referred to the Committee on Health and Institutional Services in non-concurrence.

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

#### Non-Concurrent Matter

Bill "An Act to Require Motorcycle Operators and Passengers and Motor Driven Cycle Operators and Passengers to Wear Helmets if they are Minors" (H. P. 114) (L. D. 123) on which the House insisted on its former action whereby the bill was passed to be engrossed as amended by House Amendment "A" (H-40) in the House on February 23, 1979.

Came from the Senate with that body having insisted on its former action whereby it indefinitely Postponed the Bill and accompanying papers and asked for a Committee of Conference in non-concurrence.

In the House: On motion of Mr. Diamond of Windham, the House voted to adhere.

#### Petitions, Bills and Resolves

##### Requiring Reference

The following Bills were received and referred to the following Committees:

##### Appropriations and Financial Affairs

Bill "An Act to Authorize a School Nursing Health Consultant in the Department of Educational and Cultural Services" (H. P. 886) (Presented by Mrs. Gowen of Standish) (Cosponsors: Mr. Smith of Mars Hill, Mr. Kelleher of Bangor and Mrs. Prescott of Hampden)

(Ordered Printed)

Sent up for concurrence.

##### Business Legislation

Bill "An Act Concerning Licensing of Psychologists" (H. P. 887) (Presented by Mr. Smith of Mars Hill)

(Ordered Printed)

Sent up for concurrence.

##### Energy and Natural Resources

Bill "An Act to Regulate Odors" (H. P. 888) (Presented by Mr. Howe of South Portland) (Cosponsors: Mr. Cloutier of South Portland and Mrs. Beaulieu of Portland)

Bill "An Act to Direct the Office of Energy Resources to Promote Energy Conservation

Through the Media and Public Demonstrations" (H. P. 889) (Presented by Mr. Davies of Orono)

Bill "An Act to Reduce Duplication of Legislative Review of Air Quality and Emission Standard Regulations" (H. P. 890) (Presented by Ms. Brown of Gorham)

(Ordered Printed)  
Sent up for concurrence.

#### Health and Institutional Services

Bill "An Act Concerning the Hospital Inspection Law" (H. P. 891) (Presented by Mrs. Berube of Lewiston)

(Ordered Printed)  
Sent up for concurrence.

#### Judiciary

Bill "An Act to Monitor the Juvenile Code" (Emergency) (H. P. 892) (Presented by Mr. Hobbins of Saco) (Cosponsors: Mr. Brodeur of Auburn and Mr. Joyce of Portland)

(Ordered Printed)  
Sent up for concurrence.

#### Labor

Bill "An Act to Provide for Service Fees for Nonmembers Represented by Collective Bargaining Agents" (H. P. 893) (Presented by Mr. Tuttle of Sanford) (Cosponsors: Mr. McHenry of Madawaska, Mr. Barry of Fort Kent, and Mrs. Martin of Brunswick)

(Ordered Printed)  
Sent up for concurrence.

#### Marine Resources

Bill "An Act to Revise the Lobster Escape Vent Law and Remove its Sunset Provision" (H. P. 894) (Presented by Mrs. Post of Owl's Head) (Cosponsors: Mr. Blodgett of Waldoboro and Mr. Jackson of Yarmouth)

(Ordered Printed)  
Sent up for concurrence.

#### Public Utilities

Bill "An Act to Establish a Filing Fee for Public Utilities Seeking to Change their Rates" (H. P. 895) (Presented by Mr. Davies of Orono)

(Ordered Printed)  
Sent up for concurrence.

#### Orders

An Expression of Legislative Sentiment (H. P. 883) recognizing that:

Julie Hopkins, a junior at Schenck High School in East Millinocket, has won the state Voice of Democracy contest sponsored by the Veterans of Foreign Wars

Presented by Mr. Birt of East Millinocket.  
The Order was read.

The SPEAKER: The Chair recognizes the gentleman from East Millinocket, Mr. Birt.

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: Julie Hopkins is one of the enterprising, good young students we have at Schenck High School, who won the state contest this year in speaking and it is sponsored by the VFW. I talked with her father a little while ago, and she has just recently come back from Washington. The program involved receiving a \$700 scholarship and expense-paid trip to Washington where she competed with 58 other students in the National Voice of Democracy contest.

She had a good time in Washington and visited a great many of the attractions that are there. Later on this summer, she will be one of the students who will also be going to Salt Lake City to visit the American Academy of Achievement. I think this is an outstanding achievement for a young girl, and her father is Assistant Principal of the High School at East Millinocket. I think the people in East Millinocket are very proud of what she has done.

Thereupon, the Order received passage and was sent up for concurrence.

An Expression of Legislative Sentiment (H.

P. 884) recognizing that:

Mrs. Naomi White of Patten, who was instrumental in forming the Katahdin Valley Health Center and in establishing the Patten Community Center, has been named recipient of the 1979 Jefferson Award for Public Service by the American Institute for Public Service and WLBZ-TV and Radio in Bangor

Presented by Mr. Birt of East Millinocket. (Cosponsors: Mr. Lougee of Island Falls and Senator Pray of Penobscot)

The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 885) recognizing that:

F. Robert Fay is retiring as Road Commissioner of Waterboro, after 40 years of dedicated service to the State and to the Town of Waterboro

Presented by Mr. Hanson of Kennebunkport. (Cosponsor: Senator Lovell of York)

The Order was read.

The SPEAKER: The Chair recognizes the gentleman from Kennebunkport, Mr. Hanson.

Mr. HANSON: Mr. Speaker, Ladies and Gentlemen of the House: Today I have presented an order to honor a citizen of Maine, not because of any brave act that he has done, not because of any national claim that he may have, not because of winning any title. I am presenting this order today to honor Mr. F. Robert Fay of Waterboro because he is a member of that part of Maine's tradition that is fast fading from our society.

Mrs. Fay knows what it is to help his neighbor. He has raised extra vegetables and chickens on his farm and gave them to less fortunate neighbors during Thanksgiving and Christmas-time. During snowstorms, he would plow out the elderly people's driveways at his own expense and on his own time. He would leave the warmth of his home to help one less fortunate. Regardless of the problem or of the time of day or night, yes, Mr. Speaker, members of this body, I could go on with many more accounts of this man's action of love and charity, but I need not, for they have all been recorded in the highest book of all.

Mr. Fay is retiring after 40 years of public service but the citizens of Waterboro and Maine know that he will never retire from helping his neighbor.

Thereupon, the Order received passage and was sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 896) recognizing that:

The University of Southern Maine and their Coach, Joey Bouchard, have won the District 5 National Association of Intercollegiate Athletics' Basketball Championship and have been invited to the National NAIA Championship to be held in Kansas City during the week of March 12th

Presented by Mr. Marshall of Millinocket.

The Order was read and passed and sent up for concurrence.

On motion of Mr. Cox of Brewer it was ORDERED, that Representative David Delbert of Gardiner be excused March 9, March 12, and March 13, 1979 for personal reasons.

#### House Reports of Committees Ought Not to Pass

Mr. Dow from the Committee on Fisheries and Wildlife on Bill "An Act Concerning Coon Hunting" (H. P. 156) (L. D. 184) reporting "Ought Not to Pass"

Mr. Dow from the Committee on Fisheries and Wildlife on Bill "An Act Concerning Raccoon Damage to Crops and Livestock" (H. P. 185) (L. D. 233) reporting "Ought Not to Pass"

Mr. Dow from the Committee on Fisheries and Wildlife on Bill "An Act Concerning Killing of Wild Animals Destroying Property" (H. P. 273) (L. D. 347) reporting "Ought Not to Pass"

Were placed in the Legislative Files without further action pursuant to Joint Rule 22, and sent up for concurrence.

#### Leave to Withdraw

Mr. Higgins from the Committee on Appropriations and Financial Affairs on Bill "An Act Concerning Appropriating to the Maine Energy Resource Development Fund" (H. P. 265) (L. D. 342) reporting "Leave to Withdraw"

Report was read and accepted and sent up for concurrence.

#### Consent Calendar

##### First Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(H. P. 144) (L. D. 151) Bill "An Act Concerning County Commissioners' Discretionary Powers Regarding Grants Placed in County Budgets" Committee on Local and County Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-70)

(S. P. 108) (L. D. 213) Bill "An Act Concerning the Uniform Processing of Employer Contributions into the Retirement System" Committee on Aging, Retirement and Veterans reporting "Ought to Pass"

No objections being noted, the above items were ordered to appear on the Consent Calendar of March 9, under listing of Second Day.

#### Consent Calendar

##### Second Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the Second Day:

(H. P. 127) (L. D. 136) Bill "An Act Relating to the Use of Deadly Force and Nondeadly Disabling Chemicals in Property Offenses" (C. "A" H-65)

On the objection of Mrs. Bachrach of Brunswick, was removed from the Consent Calendar.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mrs. Bachrach.

Mrs. BACHRACH: Mr. Speaker, I would just like to inquire of someone on the committee what this bill does allow you to do at this time. I looked at the amendment and it was not entirely clear to me.

The SPEAKER: The gentleman from Brunswick, Mrs. Bachrach, has posed a question through the Chair to any member of the Judiciary Committee who may care to answer.

The Chair recognizes the gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker and Members of the House: I wasn't prepared for this. Really, I am just a committee member and it is one of those bills that was put out a little while ago.

Use of deadly force and nondeadly disabling chemicals in property offenses apparently is just to give the people the right to use - the most mentioned type of chemical was made in the defense of their own personal and real property. This is to make it legal to use it after someone has come upon your property, and I don't believe you have to ask them anymore to leave.

The only decision you have to make is if they are an invitee or licensee or a regular trespasser. When you do this, you have a certain duty to each one of them, and whichever one he falls into it doesn't matter, because if they are on there and they are not there legally, you will have the right to use nondeadly chemicals. That is about the best I can tell you right now.

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

Mr. HOWE: Mr. Speaker, I would like to ask another question. I guess I would ask Mr. Carrier since he answered the first question. My understanding is that the present law, before you can use the deadly force, you have to first give them some kind of warning or ask them to

leave or whatever. Does this affect that? Does it remove the requirement to give somebody a warning or does this amended version deal only with the nondeadly chemicals?

The SPEAKER: The gentleman from South Portland, Mr. Howe, has posed an additional question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Saco, Mr. Hobbins.

Mr. HOBBS: Mr. Speaker, in regards to that particular question, there was some question whether or not in fact deadly force, through the use of a nondeadly disabling chemical, was existing in the present law. This will basically clarify that situation. The way the law is written, with amendments, in regards to this L. D. will not change the warning requirement, the warning will still have to be given before use of this particular chemical.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-65) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

(S. P. 133) (L. D. 310) Bill "An Act to Increase the Certification Fee for Geologists"

(S. P. 171) (L. D. 371) Bill "An Act Concerning the Maine Property Insurance Cancellation Control Act and to Make Nonpayment to an Agent Equivalent to Nonpayment to the Insurer"

(S. P. 191) (L. D. 458) Bill "An Act Increasing the Number of Laymen on the Judicial Council"

(S. P. 120) (L. D. 229) Bill "An Act to Increase the Compensation for Atlantic Sea Run Salmon Commission Members to \$50 a Day" (C. "A" S-24)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were passed to be engrossed in concurrence, and the House Paper was passed to be engrossed and sent up for concurrence.

#### Second Reader

##### Tabled and Assigned

Bill "An Act to Establish a Bounty on Coyote" (H. P. 78) (L. D. 86)

Was reported by the Committee on Bills in the Second Reading and read the second time.

On motion of Mr. Dow of West Gardiner, tabled pending passage to be engrossed and tomorrow assigned.

##### Passed to be Engrossed

Bill "An Act to Increase Penalties for Violation of the Statutes Concerning Minimum Wages" (S. P. 82) (L. D. 155)

Was reported by the Committee on Bills in the Second Reading, read the second time, and passed to be engrossed in concurrence.

##### Amended Bills

Bill "An Act to Increase Salaries of County Officers" (H. P. 201) (L. D. 227) (H. "B" H-57 and H. "C" H-58 to C. "A" H-44)

Was reported by the Committee on Bills in the Second reading and read the second time.

On motion of Mrs. Locke of Sebec, the House reconsidered its action whereby Committee Amendment "A" was adopted.

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

House Amendment "D" to Committee Amendment "A" (H-75) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Sangerville, Mr. Hall.

Mr. HALL: Mr. Speaker, I object to this amendment and ask for a division.

The gentleman that this represents, the judge of probate, knew what he was getting when he was appointed by the Governor. It is my feeling that his pay shouldn't be raised at this time.

The SPEAKER: The Chair recognizes the gentlewoman from Sebec, Mrs. Locke.

Mrs. LOCKE: Mr. Speaker and Members of the House: I would like to explain to you all House Amendment "D" to Committee Amendment "A" which would raise our judge of probate's salary.

Last year, the Piscataquis County delegation gave a raise to all our elected county officials effective January 1, 1979, this year, except our previous judge of probate. We not only did not give him a raise, we also cut his salary by \$500 to pay for an alternate judge to take his place while he vacationed in Arizona for three months. That judge resigned and a new one was appointed effective early in January of this year, just about the same time that the salaries of the other elected officials took effect as raised the year before.

Four out of five members of the county delegation feel that it is only fair that our new judge of probate's salary has the \$500 replaced and the raise given to the other elected officials be extended to the present judge of probate. That is what this amendment is all about, and I hope you will vote in favor of it.

The SPEAKER: The Chair recognizes the gentleman from Milo, Mr. Masterman.

Mr. MASTERMAN: Mr. Speaker, I would like to just say too, as a member of that delegation, that we did, in fact, decide to take a hard line two years ago and we thought that all elected officers should be considered in the same light. In other words, they did know what they were going to receive and we weren't going to follow the practice that annually or from year to year county officers were going to have a raise. This is the stance we took. Then, as Mrs. Locke says, the judge of probate decided to take a vacation and left, and we all unanimously decided that we would take \$500 of his salary away and, thinking he would probably be running for office the next time, we didn't choose to raise that particular office. So all we are doing is putting that \$500 back and bringing the salary where it would have been had we handled it like we did the other offices, and I would ask you to support Mrs. Locke.

The SPEAKER: The Chair will order a vote. All those in favor of the adoption of House Amendment "D" to Committee Amendment "A" will vote yes; those opposed will vote no.

A vote of the House was taken.

84 having voted in the affirmative and 8 having voted in the negative, the motion did prevail.

Thereupon, Committee Amendment "A" as amended by House Amendments "B", "C" and "D" thereto was adopted.

Mr. Blodgett of Waldoboro offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-46) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended and sent up for concurrence.

Bill "An Act to Permit Performing Arts Centers to Serve Alcoholic Beverages" (H. P. 252) (L. D. 297) (C. "A" H-60)

Was reported by the Committee on Bills in the Second Reading and read the second time.

Mr. McHenry of Madawaska offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-69) was read by the Clerk and adopted.

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

Bill "An Act to Provide for Jury List Selection from Sources other than Voting Lists" (S. P. 178) (L. D. 408) (C. "A" S-25)

Was reported by the Committee on Bills in the Second Reading, read the second time, and passed to be engrossed as amended in concurrence.

#### Passed to Be Enacted Emergency Measure

An Act to Dissolve Membership of the Towns of Hope and Appleton from the Community School District (H. P. 97) (L. D. 124) (C. "A" H-38)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 119 voted in favor of same and one against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Passed to Be Enacted

An Act to Permit Hotel, Motel and Restaurant Managers to Eject Disruptive or Destructive Persons from their Premises and to Require these Persons to Assume Responsibility for any Damages Caused (S. P. 33) (L. D. 21) (H. "A" H-47, C "A" S-18)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Increase from 3¢ to 5¢ Per Inhabitant the Amount Appropriated Annually for the State Stipend Fund for Agricultural Societies (H. P. 118) (L. D. 128) (H. "A" H-45)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the gentlewoman from South Portland, Ms. Benoit.

Ms. BENOIT: Mr. Speaker, Men and Women of the House: I have to give Mrs. Kany credit for me getting up today because she really motivated me the other day when she said there comes a time when you must really speak, when you really feel strongly about something, and even though it appears to be a lost cause, I guess that is how I feel about this bill.

As you may recall, I went down in flaming defeat on a motion to indefinitely postpone this bill last week. Perhaps the same thing will occur today; however, I feel I must speak. I have a few comments in regards to this legislation again.

First of all, to refresh your memory, there is a fiscal note on this of \$22,000 for the next two years. That means that it is projected that we will be giving the county fairs \$33,000 in 1979 and 1980. I assume it would be more in 1980 and 81. You add \$22,000 to that; we would distribute to them \$55,000 in addition to the \$297,000 which comes from the parimutuel racing.

Now, I am not against county fairs. I support county fairs, I think they are terrific, but I am not convinced that they need an additional \$44,000.

I also might add that I called the Department of Agriculture and asked if they audited the county fairs. It is not that I don't trust the county fairs but I wanted to know if we audited them. The answer is no; we give them this money, yet we do not do an audit of the county fairs.

I just think it would be wise for us to hold up on this, not to give them this money this year until we know, indeed, what the county fairs need. Maybe they don't need this money.

I am not going to use any names, but a gentleman did come up to me after the last vote and said that he had had a phone call from one constituent in regard to this bill and it was a man who was involved in the County Fair Association, and he told this representative that they don't need the money; yet he voted for it.

I had several other people—not several, at least 10 of you in here came up and told me that I was right, that you agreed with me; yet, you voted for it.

Also, I would hope that perhaps Representative Post might speak to the Seafood Festival. The Seafood Festivals don't get stipend, but they are promoting a Maine product, a very good Maine product.

And one last comment, after my flaming defeat last week and all of you came up and



told me how you should have voted with me but didn't. I am going to tell you how you can do it this time. I am going to make a motion, I guess the motion to indefinitely postpone, and you don't have to vote against the county fairs, all you have to do is vote against the bill. If I make the motion to indefinitely postpone and you agree with me, all you have to do is flick your button to the left - that is all.

I think we ought to set our priorities right now. We don't need to send all of these bills down to the Appropriations Table and let them sit there. Let's make some decisions right here. So I would ask all of you that have the guilty consciences, as two of you told me, please join me and vote against enactment of this bill. Vote against this, but this time you will have to push your button to the right and vote no.

The SPEAKER: The Chair recognizes the gentleman from Presque Isle, Mr. Roope.

Mr. ROOPE: Mr. Speaker, I would request a roll call.

The SPEAKER: The Chair recognizes the gentleman from Poland, Mr. Torrey.

Mr. TORREY: Mr. Speaker, Ladies and Gentlemen of the House: Just a few brief remarks. I understand how Representative Benoit feels on this, but I certainly don't agree with her statement about the festivals getting funds. All the other festivals in Maine do not receive any funds, whether it is in agriculture or seafood or anything else. The fairs are a different type of an organization, a gathering place and home for exhibits from animals to crafts to canning foods, 4-H exhibits and whatever and it is a special category. These funds are well spent. The extra funds would be helpful to just encourage the increased participation in these organizations and serve as a little incentive, you know, for people to continue doing this kind work.

The SPEAKER: The Chair recognizes the gentleman from Harrison, Mr. Leighton.

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: This is the first time I have risen to speak in this august body and I hope you all are properly appreciative of my forbearance — you should be so lucky as time goes on.

I was one of those who voted against the gentlelady's motion from South Portland to indefinitely postpone the other day. I told her afterwards that I had slight feelings of guilt because I had been nagging her — for want of a better term — for supporting some of my efforts to reduce the role of government in our lives. I intended to let it go at that, but that night I tossed and turned in my sleep and I believe I was visited by the spirit of Abraham Lincoln, at least spirits were involved. Anyway, he admonished me to only let government do for us those things that we couldn't best do for ourselves.

Like Representative Benoit, I am a fan of county fairs, I am a supporter of county fairs, I don't know too much about the organization of county fairs, but I would like to have someone tell me from the committee, or otherwise, why the funding of agricultural fairs is a legitimate function of government? If they can't convince me that it is a legitimate function of government, I am going to give my heart and my mind and my vote to the gentlelady from South Portland.

The SPEAKER: The Chair recognizes the gentleman from Winslow, Mr. Carter.

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I don't know if I can convince the good gentleman or not, but I will make an attempt at it. I hope I won't take too long on this issue because it was well debated the other day.

Public support for Maine agricultural fairs has been a major factor in their success since the founding of this state, and down through the years, the state has always contributed in the form of a stipend to promote agriculture,

which is one of the mainstays of this region.

Originally, more specifically in 1944, the stipend amounted to two cents per inhabitant of the state, or the total of \$16,944, and these monies then amounted to 100 cents return on the payout given for premiums to the fair operators. Down through the years, the fairs have expanded and today there are 27 in the state, of which 11 are parimutuel fairs, and the total contribution to the General Fund from the parimutuel fairs was \$812,818 in 1976 and \$919,248 in 1977.

The amount that has been asked for here is not going to make a tremendous big dent in the revenues that are generated to the state by the operation of the fairs but it will help to alleviate the losses taken by the fair operators in the payment of premiums to promote agriculture. The return on their investment now, or last year, was only 34 cents on a dollar. Increasing the stipend to five cents per inhabitant is not going to take up the difference. It will help some, and I would hope that you would stand fast and vote as you did the other day, move the button to the right and allow this bill to sit on the Appropriations Table and take its chances with the other measures.

The SPEAKER: The Chair recognizes the gentleman from Poland, Mr. Torrey.

Mr. TORREY: Mr. Speaker, Ladies and Gentlemen of the House: I sincerely agree with the remarks of the gentleman from Winslow, Representative Carter.

Just one brief remark — I have here a copy of the Farm Bureau weekly paper that comes out from all New England agriculture and under the Vermont legislative report, there is a statement from that writeup. "The stipend fund is undergoing the usual yearly discussion. We believe that \$100,000 is money well spent in the promotion of Vermont's agricultural industry." I certainly believe this money will be well spent for the promotion of Maine's agricultural industry.

The SPEAKER: The Chair recognizes the gentleman from Sabattus, Mr. LaPlante.

Mr. LAPLANTE: Mr. Speaker, Ladies and Gentlemen of the House: I guess I feel just the opposite of Representative Leighton. If the good lady from South Portland could convince me that the taxpaying money going into the Portland Civic Center is as well worthwhile as the fairs, I will give her a vote.

The SPEAKER: The Chair would hate to interrupt the debate to advise the gentleman from Sabattus, Mr. LaPlante, and other members of the Cumberland County delegation that we are not debating the merits or demerits of the Cumberland County Civic Center.

It is one issue that I would hope would simply pass from this body, for those of us who have been through it before.

The SPEAKER: The Chair recognizes the gentleman from Easton, Mr. Mahany.

Mr. MAHANY: Mr. Speaker and Members of the House: Anything we can do to help Maine agriculture is money well spent. This bill had a good hearing and we had a good discussion on it the other day, and I hope you will not kill this bill. I think it is money well spent.

The SPEAKER: The Chair recognizes the gentleman from Yarmouth, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I had a question that I was going to pose and that was — the gentleman said that the return was only 34 cents on the dollar. If that meant for every dollar invested, they got 34 cents back, they have a pretty good investment going.

Beyond that, I was just going to point out that we don't have a fair, my comrade, Mr. Garsoe, has a fair but we don't have a fair, we have a clam festival and we serve clams, climb poles and have firemen musters and things like that and we don't get support out of this. That isn't the reason that I am going to vote against it, but I do think we could keep it as it is now.

The SPEAKER: The Chair recognizes the

gentlewoman from Milbridge, Mrs. Curtis.

Mrs. CURTIS: Mr. Speaker, Ladies and Gentlemen of the House: As one who knows about flaming defeat, I wish I could support the gentlelady, but I am very much in favor of county fairs and I think this increase is well deserved.

The SPEAKER: The Chair recognizes the gentlewoman from Owl's Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: As I have been sitting here getting my mailing out, I, too, have begun to get guilty feelings. Ms. Benoit has encouraged me that I should speak and perhaps tell you the reasons why I did vote against this bill last time around and why I will continue to do so again.

I do think that Maine needs to take a look at its agricultural fishery type fairs and festivals that we have all during the summer and during the fall. I think these are important ways of both educating people as to the importance of Maine industries and to educate the tourists that come in and promote all of our Maine products.

However, the agricultural fairs per se are only a very certain fraction of the total activities that go on all across this state. If we were talking about the money from the paramutuel fund, I would agree that that should go to those organizations which participate in that fund. If we are talking about the expenditures of state dollars, then I think we ought to take a look at all the kinds of activities that go on and make some kind of arrangements to fund those, either equally or to see that all those kinds of activities, be it the clam festival in Yarmouth, the broiler festival in Belfast or the seafood festival in Rockland, get some kind of support.

The SPEAKER: The Chair recognizes the gentlewoman from So. Portland, Ms. Benoit.

Ms. BENOIT: Mr. Speaker, Men and Women of the House: Just one more brief comment and that is to remind you once more that the 27 county fairs will be receiving a projected \$330,000, 1979 to 1980, and in the interest of fair play, I only asked for a roll call, I did not make the motion to indefinitely postpone, so, Mr. Carter, you want your people to vote to the left, not to the right.

The SPEAKER: The Chair recognizes the gentleman from Winslow, Mr. Carter.

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I would be remiss if I did not thank the good gentlelady for advising members of the House how to vote. Please take her advice and push the button to the left.

While I am on my feet, let me make one quick point. It has been stated that the Department of Agriculture does not audit the premium payments, that is true, they do not, but they require a certified statement taken under oath in front of a notary, that the money was paid out and under the facility stipend, the fair people have to send a cancelled check for proof of payment to the department before they are reimbursed. The amount of reimbursement is as I stated, before, perhaps not as clear as I should have, for each dollar paid out, the fair people only receive 34 cents back.

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. 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 pending question before the House is on passage to be enacted. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Aloupis, Austin, Barry, Beaulieu, Blodgett, Bordeaux, Boudreau, Bowden, Brown, A., Brown, D., Brown, K. L., Carrier, Carroll, Carter, D., Chonko, Churchill, Conary, Cunningham, Damren, Davis, Dexter, Diamond, Dow, Drinkwater, Dutremble, D., Dutremble, L., Fenlason, Fillmore, Garsoe, Gavett, Gillis,



Gould, Gowen, Gwadosky, Hall, Hanson, Hickey, Higgins, Hunter, Jacques, P., Joyce, Kiesman, Laffin, Lancaster, LaPlante, Lewis, Locke, Lougee, Lowe, MacBride, Mahany, Masterman, Matthews, McHenry, McKean, McMahon, McPherson, McSweeney, Mitchell, Nelson, A., Norris, Paul, Payne, Pearson, Peltier, Peterson, Reeves, J., Reeves, P., Rolde, Rollins, Roope, Sherburne, Small, Smith, Soulas, Sprowl, Stetson, Studley, Tarbell, Theriault, Torrey, Tozier, Tuttle, Twitchell, Viollette, Vose, Wentworth, Whitemore, Wood, Wyman.

NAY—Bachrach, Baker, Benoit, Berry, Birt, Brodeur, Cloutier, Connolly, Cox, Curtis, Davies, Dellert, Doukas, Fowle, Gray, Hobbs, Howe, Jackson, Kane, Kany, Leighton, Leonard, Lizotte, Lund, MacEachern, Martin, A., Masterton, Nadeau, Nelson, M., Paradis, Post, Prescott.

ABSENT—Berube, Brannigan, Brennerman, Brown, K. C., Bunker, Call, Carter, P., Dudley, Elias, Huber, Hughes, Hutchings, Immonen, Jacques, E., Jalbert, Kelleher, Marshall, Maxwell, Michael, Morton, Nelson, N., Sewall, Silsby, Simon, Stover, Strout, Tierney, Vincent.

Yes, 90; No, 32; Absent, 28.

The SPEAKER: Ninety having voted in the affirmative and thirty-two in the negative, with twenty-eight being absent, the Bill is passed to be enacted.

Signed by the Speaker and sent to the Senate.

#### Orders of the Day

The Chair laid before the House the first item of Unfinished Business:

Bill, "An Act to Place Responsibility for Preparation and Implementation of Emergency Evacuation Plans in the Bureau of Civil Emergency Preparedness" (H. P. 352) (L. D. 449)

Tabled—March 2, 1979 by Mrs. Bachrach of Brunswick.

Pending—Passage to be Engrossed.

Mrs. Bachrach offered House Amendment "A" and moved its passage.

House Amendment "A" (H-68) was read by the Clerk.

Mrs. BACHRACH: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to mention what the intent of this amendment is so that everyone will be clear about it.

This is an amendment to allow emergency evacuation plans to be executed by the Bureau of Civil Emergency Preparedness and the amendment provides that there will be a submission date for these plans of March 1, 1980, and that there will be an opportunity for the public to participate in a hearing before submission of the plans.

Thereupon, House Amendment "A" was adopted.

The Bill was passed to be engrossed as amended and sent up for concurrence.

The Chair laid before the House the second item of Unfinished Business:

House Divided Report—Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (H-53) — Minority (5) "Ought Not to Pass" — Committee on State Government on Bill "An Act to Require that Heads of State Agencies Report to the State Auditor any Suspected Improper or Illegal Financial Activity in Their Agency" (H. P. 195) (L. D. 244)

Tabled—March 5, 1979 by Mr. Tierney of Lisbon.

Pending—Acceptance of either Report.

On motion of Mr. Barry of Fort Kent, the Majority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-53) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

The Chair laid before the House the third item of Unfinished Business:

Bill, "An Act to Dedicate Lottery Revenue to Programs for the Elderly" (H. P. 866) (Committee on Legal Affairs suggested)

Tabled—March 7, 1979 by Mr. Pearson of Old Town.

Pending—Further Consideration.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I move that this bill be referred to the Committee on Appropriations and Financial Affairs and would like to speak to my motion.

The good chairman of Legal Affairs and I have not been able to resolve the disagreement that we have over this particular bill. I believe that it should go to the Committee on Appropriations and Financial Affairs because if the Lottery Revenue were dedicated to programs for the elderly, it would mean a loss of revenue of about one and a half million dollars to the General Fund. Consequently, it would have a severe repercussion on the operations of my committee and the recommendations that we would come out with at the end of the year. So I would ask that you please refer this to Appropriations.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: This is an unusual request from our good, fair-weather friend from the north. I feel we will be making a serious error if we send this bill to Appropriations.

I am a cosponsor of this bill, and to many of the people in this state, the Maine State Lottery is a "no-no." It is a cruel hoax on the people of Maine, for as it stands now, it will not survive the criticism that has been directed towards it.

The lottery, as it stands now, has no heart. Let us put warm blood into that lottery. Let us dedicate those funds so that they can pay for the prescription drugs, for the much needed oil — yes, let's dedicate that fund. In order to do so, I feel we must send it to a committee that has warm blood, a committee that has understanding, not to a committee that deals in hard, cold cash and deals most of the time, I believe, behind that veil.

We never really know what goes on in that Appropriations Committee, at least the last week we never know. Let's put it down where this is openness is government, let's put it down where the people with the heart are, right down there in Legal Affairs.

I ask that you defeat the motion made by my good weather friend, Mr. Pearson.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Paradis.

Mr. PARADIS: Mr. Speaker, Men and Women of the House: I am the sponsor of this House Paper, and I would ask that you support me in voting so that it go to the Joint Standing Committee on Legal Affairs. Please give this bill a chance. Please give the Maine State Lottery a chance by letting it go to a committee, as the good gentleman from Portland has said, that has feelings, has understanding and also has under its consideration another bill having to do with the lottery, and that is a referendum to abolish the lottery.

I think that since it already has one other bill, to be able to consider this along with it would only be fair and logical. So I would ask for a division and would ask that you support me in sending this bill to the Joint Standing Committee on Legal Affairs.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I do have a heart and the committee is open and the Speaker wants this in Legal Affairs, so I withdraw my motion.

Thereupon, the Bill was referred to the Committee on Legal Affairs, ordered printed and sent up for concurrence.

The Chair laid before the House the fourth

item of Unfinished Business:

Bill "An Act to Amend the Judicial Retirement System" (H. P. 811)

Tabled — March 5, 1979 by Mrs. Nelson of Portland.

Pending — Motion of same gentlewoman to Refer to Committee on Aging, Retirement & Veterans.

The SPEAKER: The Chair recognizes the gentleman from East Millinocket, Mr. Birt.

Mr. BIRT: Mr. Speaker, it seems to me this really should go to the Judiciary Committee. I think you would probably have to defeat the motion to send it to Aging and Retirement.

The SPEAKER: The Chair would answer that that is correct.

Mr. BIRT: Mr. Speaker, I move that the motion to send it to Aging, Retirement and Veterans be defeated and then I would move to send it to the Committee on Judiciary.

The SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Nelson.

Mrs. NELSON: Mr. Speaker Men and Women of the House: The bill refers to the retirement system, not because it is special to the Judiciary, but that is what we are dealing with, the retirement system. That is what our committee says; that is what we are dealing with; that is where it goes.

I would hope that you would defeat this motion. It is dealing with the retirement system and that is our specialty.

The SPEAKER: The Chair recognizes the gentleman from East Millinocket, Mr. Birt.

Mr. BIRT: Mr. Speaker, if I understand this right, and if I am wrong I will stand corrected, but the judiciary system is covered by a special retirement system that is not funded out of the retirement program.

I fully understand and I think I am as well acquainted with all the problems and the workings of the retirement system as any member in this House, so I don't have any problem. If this were directly affected, the payments were coming out of the retirement system, but if I understand the judicial retirement, it is a different system altogether; consequently, this is the reason that I believe it should go to Judiciary.

The SPEAKER: The Chair recognizes the gentleman from Rumford, Mr. Theriault.

Mr. THERIAULT: Mr. Speaker and Members of the House: It is true that the Judiciary retirement does not come out of our retirement system but it is still retirement. A few years back, we did have a bill which had to do with Judiciary retirement, Veteran's and Retirement Committee took care of it, so I don't see why it should be any different this time. It should go to our committee.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the gentlewoman from Portland, Mrs. Nelson, that this Bill be referred to the Committee on Aging, Retirement and Veterans. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

73 having voted in the affirmative and 33 in the negative, the motion did prevail.

Thereupon the Bill was referred to the Committee on Aging, Retirement and Veterans. Ordered Printed and sent up for concurrence.

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

Bill, "An Act Appropriating Funds for Promotion of Direct Marketing of Agricultural Commodities" (H. P. 684) (L. D. 864)

— In House, referred to Committee on Agriculture on March 1, 1979.

— In Senate, referred to Committee on Appropriations and Financial Affairs in non-concurrence on March 6, 1979.

Tabled — March 7, 1979 by Mr. Pearson of Old Town.

Pending — Further Consideration.

On motion of Mr. Mahany of Easton, the

House voted to insist.

                      
(Off Record Remarks)

On motion if Mrs. Nelson of Portland, adjourned until twelve o'clock noon tomorrow.