

# 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**

STATE OF MAINE  
One Hundred and Ninth Legislature  
JOURNAL OF THE SENATE

March 6, 1979

Senate called to Order by the President.

Prayer by Reverend Charles Dartnell, Retired, of Brewer.

Reverend DARTNELL: Let us pray! Our Heavenly Father, we thank you for these moments of quiet meditation before the members of this body begin to take up the duties, and at times a burden, of this day.

Let thy spirit be close and may there be an understanding in their thinking; may their decisions be circumscribed with wisdom; let there be brotherliness in their attitudes and may mercy temper their judgments. Let them not think that when these few moments are through that their dependence upon thee is over, and there is no further need of thy counsils, for the rest of this day.

Instead, dear God, let there come light upon dark and foggy problems; may there be joy and faithfulness to a decision reached with clear conscience; may a powerful good be generated here, which will last through days to come, as this day draws to a close; may they be aware of thy whispered benediction, "Well done, good and faithful servant," Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

Papers From the House  
Non-concurrent Matter

Joint Order Relative to directing the Legislative Council to refer Joint Resolution Memorializing Congress to Call a Constitutional Convention to Limit the Annual Federal Budget to the Committee on Judiciary. (S. P. 263)

In the Senate, February 28, 1979, Read and Passed.

March 5, 1979, "Ruled Not properly before the House, by Speaker Martin".

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

Senator KATZ: Mr. President and Members of the Senate: When last I spoke to this Joint Order I had misgivings that the Maine Legislature was being gagged by the heavy hand of a Democratic Leadership, that sought to stifle legitimate debate, on an issue of supreme importance to millions of the American people.

The Minority Leader if you will recall, requested a ruling from the Chair, on whether this Joint Order was in violation of Joint Rule 35. The President made his decision promptly, on the Record as part of the orderly procedures, which we cherish so much in the Senate. The system was meticulous, the issue was raised, the issue was disposed of, the Minority Leader was and is sincerely committed to the validity of his position, and the President has earned the right, over the past four (4) years he has presided, to have his sincerity equally accepted when he makes a ruling from the Chair, that he genuinely believes in, and is sincerely committed to the validity of his position. I think that the Minority Leader would never assign base motives to a respected friend of so many years.

There was one further step the Minority Leader or others of a contrary point of view, might have taken when the President ruled the Joint Order did not violate Joint Rule 35, the ruling of the Chair could have been challenged. A vote of the entire Senate would have followed, either sustaining or overturning the ruling of the Chair. This is a serious step, never undertaken lightly in this body, but it is available and it is a magnificent presence in the wings constantly reminding a presiding officer, that all of his power, I repeat all of his power, is derived from the consent of his thirty-two (32) Senate colleagues.

Thus, in our action last week our well estab-

lished traditional procedures were meticulously followed, even if in the final decision there were some whose point of view did not prevail, this is the essence of the Democratic System.

Today the Joint Order is back on our calendar, the system so cherished in the Senate, so zealously followed, has been subverted by the other body. The order was never reproduced by the House, when it was sent down last Wednesday, it did not appear in a timely fashion on the House Advance Journal on Thursday, nor on Friday, nor yesterday nor today. Yesterday after the House finished its formal calendar, the Speaker made some remarks, Off the Record, explaining why he chose to keep a Joint Order, duly passed by the Senate, Off the House Calendar.

I have reproduced those remarks and have them distributed to each member of this body. What is the Speaker saying to us? To the one hundred fifty (150) other Legislators in the House and the thirty-three (33) members of the Senate?

He is saying, that when he decides, an item is Out of Order, or inappropriate for consideration by the House, it is his right and it is his duty to prevent its consideration. He says this right is his, and not subject to appeal by anybody, he would deny the Senate, a basic right that is absolutely essential for our bicameral system to work, to have our papers dealt with in an orderly, prompt fashion, when we send them down.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley, who may state his point of order.

Senator CONLEY: Mr. President, the good Senator from Kennebec, is stating before this body words that were used in the House of Representatives, I do not believe that they are for introduction, at this time.

The PRESIDENT: The Chair hears the Senator's complaint and would say that in a non-concurrent situation, it would be pretty impossible to discuss the merits of the matter without discussing the rationale that went behind the decision, made by the other body.

The Chair recognizes the Senator from Cumberland, Conley.

Senator CONLEY: Mr. President, a Parliamentary Inquiry, it is my understanding, under the rules this body is not allowed to use any debate that was used on the floor of the House of Representatives?

The PRESIDENT: The Chair would advise the Senator this debate was, Off the Record, and not used on the floor of the House and it was not debated in the House and that is the whole point of the procedure.

Senator KATZ: Mr. President and Members of the Senate. I am appalled by the mischief this posture could cause, I am reminded of a phrase from my youth by William Pitt, "Where Law Ends Tyranny Begins".

The protection of our orderly procedures is no occasion for partisan confrontation, a Senate Paper, must be disposed of by the House, a House Paper, must be disposed of by the Senate, and it always is. Of course, we shall have differences of opinion, they are healthy indicators that our system is working.

This Joint Order should have appeared on a House Journal, the Speaker then could have ruled it in violation of the Joint Rules, if he so desired. If any member wished to challenge his ruling, he might have done so, without in any way impugning the integrity of the Speaker, by questioning the motives behind the ruling. If the challenge to the Chair failed another Legislator, if he wished, might have moved to Suspend the Rules, if indeed this Order does violate the Rule 35.

Thus, it would have been returned to the Senate with the action of the House, whatever it was, clearly indicated on the paper, the Speaker permitted none of this.

For those House Members who represent constituents in my Senate District, and in yours

the result was complete and utter disenfranchisement. Is there a double standard in this Legislature? Is there openness and freedom to speak in one end of the corridor? Can one challenge the President, but not the Speaker? Are Maine's One Hundred and fifty-one (151), in this case one hundred and fifty (150) House members to be deprived of basic Democratic right? Are they to be bottled up by the autocratic paternalism of a big daddy, who by talking things over with himself knows what is best for a one hundred and fifty (150) sovereign Legislators, he demeans? It is the very integrity of the bicameral process that is held in contempt, by such action.

Mr. President and Members of the Senate, I am at a loss to know what to do with this Joint Order, a precedent is being established here, a precedent so dangerous, I feel appalled, but it has to be disposed of if we are to maintain our process. Mr. President, I therefore move the Senate Recede and if this motion passes, I will ask that this Joint Order be Indefinitely Postponed.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate: I appreciate the remarks made by the good Senator from Kennebec, Senator Katz, he speaks very strongly to his position and to the position of the Majority Party of the Maine Senate.

With no disrespect to you, Mr. President, or to the Majority Floorleader, a question was raised a Parliamentary Question, through the Chair with respect to Joint Rule 35, when this issue first came before us. Again I will remind the Senate, as to what Joint Rule 35 states, "Memorials, No Memorial shall be in order for introduction, unless approved by a majority of the Legislative Council." Again with all respect to the presiding officer of this body, he ruled in his mind, the issue that came before this Senate was properly before the Senate.

Now I would ask any member of this body, if the presiding officer at the other end, doesn't have equal power to quote the words used by the Majority Floorleader? Should he not respect in his own mind and in his judgment his integrity with respect to Joint Rule 35? Does he have any right whatsoever to protect the other five (5) members of the Legislative Council, with respect to this particular issue?

Let's substitute something different than this Joint Memorial, suppose a Bill was killed off in both Houses, and somebody introduced it here and the presiding officer, said in good faith that he believed it was properly before this Senate. And yet again the minority of this Senate said that it was not and it went down to the other body. Is the presiding officer to say, well so long as it was accepted in the majority or in the Senate, it is therefore legally before the Legislature? I say NO, and I think everybody in this Senate would say NO.

There is a very strong question before us, and it is Joint Rule 35, it is not and let me make it clear, it is not the Memorial to Congress. Some of us have very strong feelings with respect to that Memorial. Some have strong feelings about the State of Maine and its Legislature mandating Congress to get its house in order, some of us are even more strongly opposed to the situation of a Memorial calling for a Constitutional Convention.

There are two distinct different arguments with respect to this Memorial and I have certainly tried to make a compromise with the majority party. I would gladly sign a Resolution Memorializing Congress, addressing a Balanced Federal Budget to allow it to get before the Committee on Judiciary for a public hearing. All you have to do is strike out the calling for a Constitutional Convention, I have said that over and over and over again, if you want to debate a Federal Balanced Budget fine, but neither I nor the vast majority of the members of my party want to have anything to do with

Resolution calling for a Constitutional Convention.

So let us make it very very clear in the eyes of the public and the citizens of this State, one I personally don't feel we have any business at all discussing the Federal Budget, we recognize a number of dollars and cents that come both to the State and to the local communities to help them get by without raising property taxes, but we will get away from the issue, let's stick to the Joint Order, Joint Rule 35.

Now is Joint Rule 35 to be subverted? I say No, and if you want to change Rule 35, it is very easy to do and if you want to suspend the rules of Joint Rule 35, for the proper introduction of this order, go ahead and do it. It does not take an order, but let's not subvert the rules that all of us here, feel what will run and what is allowed to be introduced in both the House or in the Senate.

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

Senator KATZ: Mr. President, when the good Senator from Cumberland, Senator Conley, speaks I always listen intently and I find myself with my head nodding in agreement more than in disagreement, but the good Senator did not speak to the issue. The issue is not whether it is a good idea or a bad idea to try to put a cap on Federal Spending and how to do it. The issue is not whether Rule 35, is being injured or not being injured this morning, that was the issue last time.

The issue today, even as he pointed out, is that colleagues never had a chance to Suspend the Rules, even as he did here. He was given the opportunity to Suspend the Rules, if he wished, but no one in the House has had an opportunity to Suspend the Rules, because this sovereign Senate Paper was never permitted to come before the body. I can not say it any more simply than that it is not a partisan question. It has nothing to do with spending limitations in the Congress, it has nothing to do with Rule 35, must the House of Representatives deal with Senate Papers?

The PRESIDENT: The Senator from Kennebec, Senator Katz, moves that the Senate Recede.

Is this the pleasure of the Senate?

The Motion prevailed.

On Motion by Senator Katz of Kennebec, S. P. 263 was Indefinitely Postponed.

Senator Hichens of York, was granted unanimous consent to address the Senate, Off the Record.

(Off Record Remarks)

Senator Ault of Kennebec, was granted unanimous consent to address the Senate, Off the Record.

#### Joint Order

An Expression of Legislative Sentiment recognizing that:

The Loring Snowhaws Snowmobile Club of Loring Air Force Base in Maine rode in severe weather down the State to support the Pine Tree Crippled children's Camp. (H. P. 772)  
An Expression of Legislative Sentiment recognizing that:

Mrs. Burnette Lufkin, a resident of Madrid and Phillips since she was 3 years old and holder of the Boston Post Cane in Phillips as the town's oldest resident, celebrated her 100th birthday... (H. P. 773)

Comes from the House, Read and Passed.  
Which were Read and Passed, in concurrence.

#### House Papers

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

Comes from the House, referred to the Committee on Agriculture and Ordered Printed.

On motion by Senator Huber of Cumberland referred to the Committee on Appropriations and Financial Affairs and ordered printed in non-concurrence.

Sent down for concurrence.

Bill, "An Act to Provide Matching Funds to Support and Expand the Foster Grandparent Program". (H. P. 685) (L. D. 865)

Bill, "An Act to Appropriate Funds to the State Library for the Purchase of 125 Copies of "Our Maine Heritage" by Rita Stadig". (H. P. 686) (L. D. 866)

Bill, "An Act to Reinstate Aid to Families with Dependent Children payments for Unborn Children". (H. P. 687) (L. D. 867)

Comes from the House, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

On motion by Senator Katz of Kennebec, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed, in concurrence.

Bill, "An Act Relating to Notification under the Maine Consumer Credit Code". (H. P. 688) (L. D. 868)

Bill, "An Act Exempting the Sale of Insurance from the Application of the Maine Consumer Credit Code, Part 1". (H. P. 691) (L. D. 869)

Bill, "An Act Amending the Law Relating to Elevators and Tramways". (H. P. 692) (L. D. 870)

Bill, "An Act Concerning the Maine Property Insurance Cancellation Control Act". (H. P. 690) (L. D. 862)

Comes from the House, referred to the Committee on Business Legislation and Ordered Printed.

On motion by Senator Katz of Kennebec, referred to the Committee on Business Legislation and Ordered Printed, in concurrence.

Bill, "An Act to Permit Persons Under 17 Years of Age to Attend Adult Education Classes". (H. P. 693) (L. D. 871)

Bill, "An Act to Provide Student Loans to Candidates for Practice of Chiropractic in Maine". (H. P. 694) (L. D. 872)

Bill, "An Act to Increase the Initial Local Share of School Construction Projects". (H. P. 695) (L. D. 873)

Bill, "An Act to Honor School Construction Projects Approved under Prior Laws". (Emergency) (H. P. 696) (L. D. 874)

Bill, "An Act to Permit Special Education Students who have Completed Available Special Education Programs to Enter Vocational Schools before Attaining the Age of 16". (H. P. 697) (L. D. 875)

Comes from the House, referred to the Committee on Education and Ordered Printed.

On Motion by Senator Katz of Kennebec, referred to the Committee on Education and Ordered Printed in concurrence.

Bill, "An Act to Prevent Game Wardens from Trapping in the Area in Which They Work". (H. P. 699) (L. D. 876)

Comes from the House, referred to the Committee on Fisheries and Wildlife, and Ordered Printed.

On motion by Senator Katz of Kennebec, referred to the Committee on Fisheries and Wildlife and Ordered Printed, in concurrence.

Bill, "An Act Concerning Reimbursement for Health Care Services in Certified Rural Health Clinics". (H. P. 700) (L. D. 890)

Comes from the House, referred to the Committee on Health and Institutional Services and Ordered Printed.

On motion by Senator Katz of Kennebec, referred to the Committee on Health and Institutional Services and Ordered Printed, in concurrence.

Bill, "An Act Concerning Periodic Tenancy under the Landlord Tenant Law". (H. P. 702) (L. D. 877)

Bill, "An Act to Amend the Alternative Method of Support Enforcement". (H. P. 701) (L. D. 861)

Comes from the House, referred to the Committee on Judiciary and Ordered Printed.

Which was referred to the Committee on Judiciary and Ordered Printed, in concurrence.

Bill, "An Act to Amend the Employment Security Law to Provide Benefits to Certain Educational Employees". (H. P. 703) (L. D. 878)

Bill, "An Act Concerning the Posting of Information on the Allowability of Witness and Attorney's Fees under the Workers' Compensation Act". (H. P. 704) (L. D. 879)

Bill, "An Act Concerning Unemployment Benefits for Persons Mandatorily Retired because of Age". (H. P. 705) (L. D. 880)

Bill, "An Act Amending the Claim Period Provision of the Workers' Compensation Act". (H. P. 706) (L. D. 881)

Comes from the House, referred to the Committee on Labor and Ordered Printed.

Which were referred to the Committee on Labor and Ordered Printed, in concurrence.

Bill, "An Act Concerning Access by Physically Disabled Persons to Certain Public Facilities". (H. P. 707) (L. D. 891)

Bill, "An Act to Provide for Certain Signs to Assist Blind Person in Elevators". (H. P. 708) (L. D. 882)

Comes from the House, referred to the Committee on Legal Affairs and Ordered Printed.

On motion by Senator KATZ of Kennebec, referred to the Committee on Health and Institutional Services and Ordered Printed, in non-concurrence.

Sent down for concurrence.

Bill, "An Act to Include the Term "Sexual or Affectional Orientation" in the Maine Human Rights Act". (H. P. 673) (L. D. 860)

Committee on Legal Affairs suggested.

Comes from the House, referred to the Committee on Judiciary and Ordered Printed.

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

Senator KATZ: I move that L. D. 860 be referred to the Committee on Legal Affairs and Ordered Printed.

The PRESIDENT: The Senator from Kennebec, Senator Katz, moves that L. D. 860 be referred to the Committee on Legal Affairs Ordered Printed and sent down for concurrence.

On Motion by Senator Hichens of York, Tabled until later in today's session, pending Reference.

Bill, "An Act Converting the Unorganized Township of Edmunds into the Town of Edmunds". (Emergency) (H. P. 710) (L. D. 863)

Bill, "An Act to Return a Portion of Land to the Town of Wales by the Town of Sabattus". (H. P. 709) (L. D. 833)

Comes from the House, referred to the Committee on Local and County Government and Ordered Printed.

Which were referred to the Committee on Local and County Government and Ordered Printed, in concurrence.

Bill, "An Act to Amend the Charter of Mapleton to Increase the Sum Paid to the Trustees of the Mapleton Sewer District and to Amend the Provisions Relating to Liens for Collection of Rates Due". (H. P. 711) (L. D. 884)

Bill, "An Act to Amend Provisions of the Charter of the Gardiner Water District Relating to Trustees and Funding". (Emergency) (H. P. 712) (L. D. 885)

Comes from the House, referred to the Committee on Public Utilities and Ordered Printed.

Which were referred to the Committee on Public Utilities and Ordered Printed, in con-

currence.

Bill, "An Act to Designate the Moose as the State Animal", (H. P. 713) (L. D. 886)

Bill, "An Act Establishing Mechanisms to Pinpoint Responsibility and Facilitate Coordination Between the Various Manpower Training and Economic Development Programs", (H. P. 714) (L. D. 887)

Come from the House, referred to the Committee on State Government and Ordered Printed.

Which were referred to the Committee on State Government and Ordered Printed, in concurrence.

Bill, "An Act to Provide for a Tax Credit for the Gas Tax Relating to Taxicabs", (H. P. 715) (L. D. 888)

Comes from the House, referred to the Committee on Taxation and Ordered Printed.

Which was referred to the Committee on Taxation and Ordered Printed, in concurrence.

Bill, "An Act to Repeal the Agent Requirements for the Insurance of Certain Semitrailer Permits", (H. P. 716) (L. D. 889)

Comes from the House, referred to the Committee on Transportation and Ordered Printed.

Which was referred to the Committee on Transportation and Ordered Printed, in concurrence.

#### Communications COMMITTEE ON LABOR

March 2, 1979

The Honorable Joseph Sewall  
President of the Senate of Maine  
State House  
Augusta, Maine 04333

Dear President Sewall:

In accordance with 3 M. R. S. A., Chapter 6, section 151, and with Joint Rule 38 of the 109th Legislature, the Joint Standing Committee on Labor has had under consideration the nomination of Samuel D. Shapiro to serve as a member of the State Employees Appeals Board.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate of the 109th Maine Legislature that this nomination be confirmed. The vote was taken by the yeas and nays. The Committee Clerk called the roll with the following result:

YEAS:  
Senators — 3  
Representatives — 9

NAYS:  
Senators — 0  
Representatives — 0

ABSENT:  
Senators — 0  
Representative — 1  
Rep. Edith Beaulieu, of Portland

Twelve members of the Committee having voted in the affirmative and one absent, it was the vote of the Committee that the nomination of Samuel D. Shapiro to serve as a member of the State Employees Appeal Board be confirmed.

Sincerely,

S/ROLAND SUTTON, Senate Chairman

S/JASPER WYMAN, House Chairman

Which was Read and Ordered Placed on file.

The PRESIDENT: The Joint Standing Committee on Labor has recommended that the nomination of Samuel D., Shapiro be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on Labor be overridden? In accordance with 3 M. R. S. A., Chapter 6, section 151, and with Joint Rule 38 of the 109th Legislature, the vote will be taken by the yeas and nays. A vote of YES will be in favor of overriding the recommendation of the Committee. A vote of NO will be in favor of sustaining the recommendation of the Committee. Is the Senate ready for the

question?

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

YEA — None

NAY — Ault, Chapman, Clark, Collins, Conley, Cote, Emerson, Farley, Gill, Hichens, Huber, Katz, Lovell, Martin, McBreairey, Minkowsky, Najarian, O'Leary, Perkins, Pierce, Pray, Redmond, Shute, Silverman, Sutton, Teague, Trafton, Trotzky, Usher, Sewall.

ABSENT—Carpenter, Danton, Devoe.

No Senators having voted in the affirmative and 30 Senators in the negative, with 3 Senators being absent and none being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Samuel D. Shapiro is confirmed.

(Off Record Remarks)

#### COMMITTEE ON TAXATION

February 28, 1979

Senator Richard Pierce, Chairman

Legislative Council

State House

Augusta, Maine 04333

Dear Senator Pierce:

In accordance with Title 1, Chapter 31 of the Maine Revised Statutes Annotated directing the appropriate legislative committee to prepare and submit a report evaluating the advisability of retaining Title 36, sections 652 and 656 concerning property tax exemptions, the Joint Standing Committee on Taxation hereby submits the attached final report of the Committee.

Respectfully submitted,

THOMAS M. TEAGUE

Senate Chairman

BONNIE POST

House Chairman (H. P. 771)

Comes from the House, Read and with accompanying report, placed on file.

Which was Read.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President and Members of the Senate: I would just call to your attention, that this is an item dealt with by the Taxation Committee, a report to the Legislative Council, dealing with Property Tax Exemptions, which was done for the first time this year.

While it is nice to see my name appearing on the calendar and I suspect if we accept this it will appear on the calendar many, many other times during the two (2) year period that I am a member of the council, I think that it is a bad precedent to set and needless for us to put these on our calendar. I would suggest that perhaps we could continue to do them as we have in the past by handing out the reports and placing them on file within Legislative Council. Therefore, I would move that this item not be placed in the file.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, moves that the Senate Not File this Communication.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Oxford Senator O'Leary.

Senator O'LEARY: I think the good Senator from Kennebec, Senator Pierce is in a sense subverting the will of the Legislature. Mr. President, I would submit the cost or the expense of putting this on the calendar is not that great and I would like to be informed, and I would move when the vote is taken it be by Division.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, with all due respect to the good Senator from Kennebec, Senator Pierce, if we do not place this report on file, what are we going to do with it?

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: I guess we do with this report what has always been done with reports, addressed to the Legislative Council, that they go directly to the Legislative Council where they will be placed on file.

The PRESIDENT: Is the Senator ready for the question?

The pending question before the Senate is the Motion by the Senator from Kennebec, Senator Pierce, that this Communication H. P. 771 Not be Placed on File.

A Division has been requested.

Will all those Senators in favor of Not Placing this Communication on File, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

14 Senators having voted in the affirmative and 14 Senators in the negative, the Motion does not prevail.

Is it now the pleasure of the Senate to Place this Communication on File?

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of Placing this Communication H. P. 771 on File, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: I request that when the vote is taken it be taken by the Yeas and Nays.

The PRESIDENT: A Roll Call has been requested.

Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The Chair recognizes the Senator from Oxford Senator O'Leary.

Senator O'LEARY: I would just remind the members of this body that having this on our calendar is one way of notifying us all of the report, just to place it before the Council and then to place some papers on my desk means nothing, I have an opportunity here to know what is before me. That is a basic right for each and everyone of us.

The PRESIDENT: The pending question before the Senate is that this Communication be placed on file.

A Yes vote will be in favor of Placing this Matter on File.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

YEA — Carpenter, Clark, Collins, Conley, Cote, Emerson, Farley, Hichens, Huber, Martin, McBreairey, Minkowsky, Najarian, O'Leary, Pray, Silverman, Trafton, Usher.

NAY — Ault, Chapman, Devoe, Gill, Katz, Lovell, Perkins, Pierce, Redmond, Shute, Sutton, Teague, Trotzky.

ABSENT — Danton.

A Roll Call was had.

18 Senators having voted in the affirmative and 13 Senators in the negative, with 1 Senator being absent, the Motion to Place this Communication, together with its accompanying Report on File in concurrence does prevail.

#### Senate Papers Joint Resolution

Senator Conley of Cumberland, Cosponsors: Senator Najarian of Cumberland and Senator Usher of Cumberland presented the following Joint Resolution and move its adoption:

STATE OF MAINE

In the Year of Our Lord One Thousand Nine Hundred and Seventy-Nine

**JOINT RESOLUTION IN COMMEMORATION OF THE VISIT OF U.S.S. PORTLAND, LSD 37, TO THE CITY OF PORTLAND AND STATE OF MAINE**

Whereas, on March 16, 1979, the United States Ship Portland will enter Portland Harbor for the purpose of an official visit to the City of Portland and State of Maine; and

Whereas, the officers and men of U.S.S. Portland wish to display to the citizens of Portland and the State of Maine the U.S. Navy ship which bears the name of Maine's largest city; and

Whereas, the visit of U.S.S. Portland will mark the first occasion since 1945 that a U.S. Navy ship bearing the name "Portland" has visited the City of Portland;

Whereas, the U.S.S. Portland, since being commissioned in 1970, has established a record for superior performance and is a seasoned member of the Navy-Marine Corps amphibious team; and

Whereas, the visit of U.S.S. Portland to Maine's largest city is an occasion of great significance to Maine and its citizens; now, therefore, be it

Resolved: That We, the Members of the 109th Legislature while duly assembled in regular session at the Capitol in Augusta, do extend our welcome to the officers and crew of the U.S.S. Portland upon the occasion of their visit to Portland and the State of Maine; and be it further

Resolved: That a duly authenticated copy of this resolution of welcome be sent forthwith, on behalf of the Legislature and the people of Maine, to the City of Portland for appropriate transmittal to Commander Michael B. Connolly, U.S.N., commanding officer of U.S.S. Portland, upon the occasion of that vessel's arrival at Portland Harbor.

(S. P. 335)

Which was Read.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator Pierce: I feel I must just take this opportunity to point out that this Joint Resolution, which is supported by three of our good Democratic colleagues, flies directly in the face of the remarks made by Speaker Martin, when he says the Rules, however, intended to provide for a method of handling Joint Resolutions and for the process of standardization of Legislative Orders and they are to encompass all Resolutions and Memorials and they have done so in the past. It will be interesting to see if the Speaker continues to be consistently, inconsistent, or what he chooses as a Committee of one (1), to do with this in the other body.

Which was Adopted.

Sent down for concurrence.

**Senate Papers**

Senator Lovell of York presented, Bill, "An Act to Establish a Special License for Retired or Inactive Pharmacists". (S. P. 331)

Which was referred to the Committee on Business Legislation and Ordered Printed.

Sent down for concurrence.

Senator Silverman of Washington presented, Bill, "An Act to Prohibit Out-of-State Contributions for Candidates for State or Certain Federal Offices". (S. P. 332)

Which was referred to the Committee on Election Laws and Ordered Printed.

Sent down for concurrence.

Senator Najarian of Cumberland, Cosponsors: Senator Collins of Knox, Senator Sutton of Oxford presented, Bill, "An Act Relating to Dental Health". (S. P. 330)

Which was referred to the Committee on Health and Institutional Services and Ordered Printed.

Sent down for concurrence.

Senator Silverman of Washington presented, Bill, "An Act to Prohibit any Constitutional Officer from Running for a Statewide or Federal Office during his Term". (S. P. 333)

Committee on State Government suggested, On Motion by Senator Pierce of Kennebec, referred to the Committee on Election Laws and Ordered Printed.

Sent down for concurrence.

Senator Najarian of Cumberland presented, Bill, "An Act to Amend the Law Regarding the Decibel Levels of Motorcycle Mufflers". (S. P. 334)

Which was referred to the Committee on Transportation and Ordered Printed.

Sent down for concurrence.

**Orders**

An Expression of Legislative Sentiment recognizing that:

Maynard Marsh is retiring as Commissioner of Inland Fisheries and Wildlife after 38 years of dedicated service to the people of the State of Maine, including 7 years as Commissioner... (S. P. 328) is presented by Senator Usher of Cumberland.

An Expression of Legislative Sentiment recognizing that:

The Bangor Christian Patriots have won the Eastern Maine Class D Basketball Championship... (S. P. 329) is presented by Senator Trotsky of Penobscot.

Which were Read and Passed.

Sent down for concurrence.

**Committee Reports**

**House**

**Leave to Withdraw**

The Committee on Local and County Government on, Bill, "An Act to Increase the Salary of the Kennebec County Register of Deeds and Register of Probate by 7%". (H. P. 283) (L. D. 361)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Local and County Government on, Bill, "An Act Concerning Expenditure of County Funds". (H. P. 143) (L. D. 149)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on State Government on, Bill, "An Act Concerning Appointments of Justices of the Peace". (Emergency) (H. P. 109) (L. D. 118)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Reports were Read and Accepted, in concurrence.

**Senate**

**Ought to Pass**

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

Reports that the same Ought to Pass.

Which Report was Read and Accepted and the Bill Read Once and Tomorrow Assigned for Second Reading.

**Divided Report**

The Majority of the Committee on Judiciary on, Bill, "An Act to Provide for Jury List Selection from Sources other than Voting Lists". (S. P. 178) (L. D. 408)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-25)

Signed:

Senator:

COLLINS of Knox

Representatives:

SIMON of Lewiston

CARRIER of Westbrook

GRAY of Rockland

LAFFIN of Westbrook

STETSON of Wiscasset

SEWALL of Newcastle

The Minority of the same Committee on the same subject matter Reported that the same Ought Not to Pass.

Signed:

Senators:

DEVOE of Penobscot

TRAFTON of Androscoggin

Representatives:

SILSBY of Ellsworth

HUGHES of Auburn

JOYCE of Portland

HOBBINS of Saco

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President, I move that we Accept the Minority Ought Not to Pass Report and would speak to my motion.

The PRESIDENT: The Senator from Androscoggin, Senator Trafton, moves that the Senate Accept the Minority Ought Not to Pass Report of the Committee.

The Senator has the floor.

Senator TRAFTON: Thank you Mr. President. Mr. President and Members of the Senate: The Bill, before us today deals with Jury Reform and specifically with Reform of the Method of Selection of Juror Members.

I think it is an important area of concern and one which we should not treat lightly, because indeed jury selection produces juries which are the bedrock of our Judicial System, which grants us the privilege of a trial by our peers. So I would say again, I think the underlying purpose of this Bill, is very sound, however, I think there are some problems with the Bill, at the present time.

I think we would all recognize that reform of the jury system, is not something that can be accomplished easily, if it is to be effective. There are many other issues that should be dealt with, I believe, simultaneously, as we deal with the method of selection. For example, exemptions for jurors, the length of term that a juror will serve, and compensation for jurors.

The Bill, before us today, however, deals with none of these other tangential issues, I feel they should all be considered at once.

We could turn to the example of one of our sister states, Massachusetts, to see how they have approached jury reform, they moved very cautiously in this area and, in fact, after considerable study, only undertook a pilot project in one of their counties, Middlesex County, before generalizing the project to the State, they have been watching the results of the pilot project in this one county, I think their example would serve us well.

In the past we have had many Bills, in on jury reform, the issue has been a growing one, and at this time the court system has undertaken a study of the total area. They have a grant from LEAA to the tune of \$50,000 and they are presently looking at all the issues I mentioned previously, and will be trying to arrive at some specific Legislative Recommendations probably for the 110th Legislature.

It seems only prudent at this point, to wait for the results of this study. I am sure every member of the Joint Standing Committee on the Judiciary is fully supportive of this study and is eagerly awaiting their recommendations.

Changing the jury system, can involve a



great deal of expense and also a great deal of effort, and again, I think, we should wait until we have some concrete recommendations from the study undertaken by the Court System.

Dealing with the specifics of the Bill, before us the Court Administrator has already pointed out that several of the provisions will be unwieldy and already are not actively being considered for inclusion in their recommendations. For example, the use of municipal directories and telephone directories, could impose considerable management problems, in the use of these two (2) sources.

The Committee Amendment to L. D. 408 makes it entirely permissive, we have substituted a shall or may and also it moves the effective date to January 1, 1982, that is quite a ways away. I think probably this could best be left to the members of the 110th to propose something that would take effect at that far away date. So again, I think, we should be careful with our treatment of the statutes, this is in my opinion unnecessary language to put on the statutes at this time, we have an on going study, we are waiting for the recommendations, and I would hope you would accept the Minority Ought Not to Pass and wait for the wisdom of the 110th to deal with this issue. Thank You.

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

Senator COLLINS: Mr. President, the apparent division in the Judiciary Committee, is not really a serious division. We really are, I think, very much in accord in our general philosophy, that the selection of jurors needs to be reviewed. The reasons for the split in the report was largely a matter of timing, as has been indicated by the Senator from Androscoggin, Senator Trafton. At the time I signed the Majority Report, it was my concern less the Legislature, appear to back down and put a very wet blanket on a good idea, and this sometimes has the effect of killing, LEAA grant money and the ongoing studies that it undertakes, because strangely enough, the Fed's do inquire now and then what the state thinks about something, this is one of those cases where they might well do so. So that was the reason I at first supported a different point of view.

As I have made further inquiry however, and heard the persuasive remarks of Senator Trafton, I have decided to vote with that Senator, concerning this particular report. It seemed to us important to get into the Legislative Record, some recognition of this matter and of its importance and of its value, this brief debate accomplishes that purpose, we think, well as to put on the books a statute that would not come into effect for 2 or 3 years following the pending study.

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

Senator SILVERMAN: Mr. President and Members of the Senate. It is good to hear the remarks from the two Senators on the Judiciary Committee, this Bill happens to be sponsored by the Senator from Washington.

I think we are coming to the time, when we have an inadequate listing for jury selection. When I went around recently with petitions, it came to me many people who should be registered voters, are not registering to vote, because they do not want to be on the jury lists or it came to me people signed petitions and then their names were invalid, one of the reasons again, was they were not registered voters and the second reason they did not want to be on the jury lists.

Now we are coming to a time, in our governmental history where politics is becoming unpopular, where registering to vote is becoming unpopular, and the only answers that I would know is to start moving in a direction where people again will register to vote and be willing to vote.

Now I heard the good Senator from Auburn who said let us wait there is a LEAA study for

\$50,000., that will study this situation for the State of Maine, how many studies do we see come and go and \$50,000 spent and what do we have to show for it? I can take you down to the library and show you many of them.

I still say we have a major problem that jury selection, should be and the jury list should be the duty of every citizen in the State of Maine. When there are those who will not register to vote, to get out of jury duty, then it puts the burden on those of us, in our Maine Society that are willing to take this responsibility. I think to have a democratic society, you have as many people participating as possible. Therefore even though, I see the cards stacked against me, I do believe that in the merits of this direction we should consider a law, showing that the Maine Legislature is really interested in seeing registered voters or those eligible to register, register and take their burden of jury duty as they should. I would ask for a Roll Call on the Motion.

The PRESIDENT: A Roll Call has been requested.

Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The pending question before the Senate is the Motion by the Senator from Androscoggin, Senator Trafton, that the Senator Accept the Minority Ought Not to Pass Report of the Committee.

A Yes vote will be in favor of Accepting the Ought Not to Pass Report.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

YEA — Ault, Chapman, Clark, Collins, Conley, Devoe, Emerson, Farley, Gill, Huber, Martin, McBreairey, Najarian, O'Leary, Pierce, Redmond, Shute, Sutton, Teague, Trafton, Trotzky, Usher.

NAY — Carpenter, Cote, Hichens, Katz, Lovell, Minkowsky, Perkins, Pray, Silverman.

ABSENT — Danton.

A Roll Call was had.

22 Senators having voted in the affirmative and 9 Senators in the negative, with 1 Senator being absent, the Motion to Accept the Ought Not to Pass Report does prevail.

Sent down for concurrence.

#### Divided Report

The Majority of the Committee on Legal Affairs on,

Bill, "An Act to Relieve a Liquor Licensee of Liability for the Sale of Liquor to a Minor who Presents a False Identification Card which Appears to be Valid". (S. P. 181) (L. D. 411)

Report that the same Ought Not to Pass.

Signed:

Senator:

SHUTE of Waldo

Representatives:

VIOLETTE of Van Buren

SOULAS of Bangor

McSWEENEY of Old Orchard Beach

DUDLEY of Enfield

GAVETT of Orono

DELLERT of Gardiner

BROWN of Gorham

STOVER of West Bath

CALL of Lewiston

MAXWELL of Jay

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass.

Signed:

Senators:

FARLEY of York

COTE of Androscoggin

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: I move that the Senate Accept the Majority Ought Not to Pass Report.

The PRESIDENT: The Senator from Waldo, Senator Shute, now moves that the Senate Accept the Majority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from York, Senator Farley.

Senator FARLEY: Mr. President, I would request a Division and speak briefly on my Motion.

The PRESIDENT: A Division has been requested. The Senator has the floor.

Senator FARLEY: Mr. President and Members of the Senate: The LD we have before us is probably not the most earth shattering Bill we are going to have, it has been here many sessions before. It deals with identification cards as it applies to a store owner taking that ID Card and looking at it on the basis of it and then selling beer in this case to a minor.

At the present time the State ID Card which is probably the card most commonly accepted by most of the stores, in any fraternity house or in half the magazines on any store rack in any store for a \$1.25 or \$2.00 you can get a perfect card made up. When this is presented to a store owner, it is taken on the face value that it is a valid card, if it proves out to be a fraudulent card and in a lot of cases it is, the store owner is subject to a fine, suspension of license and loss of income, obviously to the gentleman.

The card is also used to a certain degree, I believe, by the Bureau of Alcoholic Beverages, some sort of entrapment merely send a minor if they want to, with a false ID Card, the store owner thinks it is a valid card accepts it, gives the gentleman the liquor, he walks out of the store and 10 minutes later he walks into the store with the man in the green uniform, and says you accepted a fraudulent card.

For those reasons, I think, the Bill is a good Bill, the onus should not be put on the Store owner and I would hope the members of this body would support the Minority Report on this.

The PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: Mr. President and Members of the Senate: When I first read this Bill, it appeared to be a good Bill to me also, but after attending the Public Hearing, and listening to the people from the Liquor Enforcement Division tell the Committee they have never arrested a store owner, that has sold liquor to a minor who had an Identification Card that appeared to be valid, or State ID Card that appeared to be valid.

I do not see any need for this Legislation. Now if you pass this it would appear to me, that you are relieving the store owner of making any other attempt to identify somebody buying liquor, other than showing their Identification Card.

Right now if you show your identification card if the store owner is not satisfied, that you appear to be 20 years old, he can ask for thorough identification, such as drivers license or some other identification. I think the store owners might feel this was all they would need is an Identification Card, that would relieve them of any responsibility they had and I think it would make it a little bit too relaxed.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President and Members of the Senate: After listening to the good Senator and his comment, I think, we have opportunity here to address the situation which is real around the State, but to properly address it we do have to get the Bill, to the Second Reading for proposing amendments.

If his concern is the fact that they will show just on ID Card, state ID Card and if this Bill is passed then the store owners, will not feel as if

he has to ask for additional ID. We can take care of that by requiring more than one identification to be shown. It is a real problem and I have had store owners contact me over the last several years in reference to a situation where a minor had stated they had purchased the alcohol at such and such a store. The individual said yes they did come in here and he did have an ID Card when he came in here, I think that then goes before the court and the court makes the decision.

But for us to just say a Store Owner who in good faith on one occasion or something, accepts an ID which may be false, but it is a State ID and he believes the individual is the person who is on the ID, so we should not as we do under present law subject him to a fine, loss of income, by pulling his liquor license, and I think it is something we should address at this time.

The PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: I would ask a question through the Chair, to the good Senator from Penobscot, Senator Pray. If he knows of any store owner that has been arrested where a minor has presented a State Identification Card, that appears to be valid, for buying liquor?

The PRESIDENT: The Senator from Waldo, Senator Shute, has posed a question through the Chair.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: The answer is Yes.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Waldo, Senator Shute, that the Senate Accept the Majority Ought Not to Pass of the Committee.

A Division has been requested.

Will all those Senators in favor of the Motion to Accept the Ought Not to Pass Report, please rise in their places to be counted.

The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: I request a Roll Call.

The PRESIDENT: A Roll Call has been requested. Under the Constitution in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously one-fifth having arisen a Roll Call is ordered.

The pending question before the Senate is the Motion by the Senator from Waldo, Senator Shute, that the Senate Accept the Majority Ought Not to Pass Report.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

YEA — Chapman, Clark, Collins, Devoe, Emerson, Gill, Hichens, Katz, McBreairty, Perkins, Pierce, Redmond, Shute, Silverman, Sutton, Teague, Trotzky.

NAY — Ault, Carpenter, Conley, Cote, Farley, Lovell, Martin, Minkowsky, Najarian, O'Leary, Pray, Trafton, Usher.

ABSENT — Danton, Huber.

A Roll Call was had.

17 Senators having voted in the affirmative and 13 Senators in the negative, with 2 Senators being absent the Motion to Accept the Majority Ought Not to Pass Report does prevail.

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

Senator HICHENS: I move that the Senate reconsider its action whereby this Ought Not to Pass Report was Accepted, and hope that you will vote against me.

The PRESIDENT: The Senator Reconsider its action whereby it Accepted the Majority Ought Not to Pass Report of the Committee.

Will all those Senators in favor of Reconsideration, please say Yes.

Will all those Senators opposed, please say No.

A Viva Voce Vote being had.

The Motion to Reconsider does not prevail. Sent down for concurrence.

#### Second Readers

The Committee on Bills in the Second Reading reported the following:

#### Senate

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

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. 171) (L. D. 371)

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

Which were Read a Second Time and Passed to be Engrossed.

Sent down for concurrence.

#### Senate — As Amended

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

Which was Read a Second Time and Passed to be Engrossed, as amended.

Sent down for concurrence.

#### Orders of the Day

The President laid before the Senate, the First Tabled, and specially assigned matter:

JOINT RESOLUTION MAKING APPLICATION TO CONGRESS CALLING A CONSTITUTIONAL CONVENTION TO PROPOSE AN AMENDMENT TO THE FEDERAL CONSTITUTION TO REQUIRE, WITH CERTAIN EXCEPTIONS, THAT THE FEDERAL BUDGET BE BALANCED. (S. P. 327)

Tabled—March 5, 1979 by Senator Pierce of Kennebec

Pending—Motion of Senator Katz of Kennebec to Refer to Committee on Judiciary and Print.

The PRESIDENT: The Chair would rule that in the Chair's opinion this Joint Resolution is not in violation of Joint Rule 35.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President, I noticed the Chair used the expression, this Joint Resolution, as in contrast to the previous document we dealt with which, was in the form of a Memorial, at least was the position of the Minority Party.

We are going to be dealing this morning with two Joint Resolutions, this one and tabled item #2, (H. P. 679). I request to you, you send them both promptly for public hearings to the Committee on Judiciary. Both of them implement the provisions of Article 5 of the United States Constitution.

Article 5 of the United States Constitution, is a small paragraph and contains only one sentence, just a single sentence. And it deals with the two methods, of effecting an amendment to the United States Constitution. The two methods have a lot of things in common, for example, whether we go with the application or the ratification, the state which takes the action must, forward a communication to the Congress.

Now Joint Rule 35 which has been the subject of so much debate here, and unfortunately not at the other end of the corridor, specially refers not to Joint Resolutions but to Memorials. Now the Speaker in his remarks was in error, when he said the Rules are to encompass all Resolutions and Memorials, and he lumped the two together. If you will read Joint Rule 35 as the good Minority Leader has on several occasions, Joint Rule 35 pertains only to Memorials. So I am asking the Senate today to act affirmatively on both of these Joint Resolutions, give them equal credibility, give them

equal treatment, open them up equally to debate.

The other day I was castigated by the Assistant Minority Floor Leader and I read although I certainly did not use the expression that the Republican Party was attempting to hold one hostage for the other and nothing could have been further from the truth. You now see our purpose was to put them side by side, and send them down together, and that is the opportunity before us this morning and to give everybody an opportunity to express themselves so his constituents and others can see, I request a Roll Call.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate: First, I would, call your attention to the wording, on today's item, that has been tabled. It says, Joint Resolution Making Application to Congress. Down in my neighborhood we say "a Rose, is a Rose, is a Rose." All we are doing is substituting the words, Memorializing Congress, Calling for A Constitutional Convention.

When the good Senator from Kennebec, Senator Katz, makes reference to the second item before us, today I would again spell out, that what this legislature is being asked by Congress, is to ratify, Ratify an amendment, that has already been passed by both Houses of Congress.

I again take opposition to the first issue before us this morning, it states "Joint Resolution Making Application to Congress", because again my own feeling is it subverts Joint Rule 35, with all respect to the chair.

I stated earlier if the words Constitution Convention were stricken from the proposed Joint Resolution, I would sign the Joint Resolution to allow it to come before the Legislature to be referred to the Committee on Judiciary, if such were the case for a public hearing.

I would like again, to point out very clearly that although this Joint Resolution before us today may sound a little differently than the initial one did, I would like to address my remarks this morning back too, what happened which appears to me to be almost three months ago, when the good Senator from Penobscot, Senator Trotzky, was parading through the Legislative Halls, with a Joint Resolution calling for a Constitutional Conventional Convention to deal with a Balanced Federal Budget. I stated very clearly that the good Senator came to me and asked me to sign the Joint Resolution, and I told him that I couldn't because I did not believe in its contents. Whereupon, the Joint Resolution after not being able to receive the necessary amount of signatures from Democratic Leadership, he promptly took it to the Republican Leaderships, of both Houses and had it introduced before the Legislative Council, as Joint Rule 35 states should be the case under any condition.

When the Resolution came before the Legislative Council, the first time, it was tabled, and laid there for one or two weeks until the council met again. At that time we were able to assemble the national press and everyone else before us and again we opposed the introduction of that Joint Resolution Memorializing Congress.

Now that was not the case, fact that it was a Joint Resolution Memorializing Congress, it had absolutely no business before the Legislative Council to start with, and the fact that it was there not only once, but twice and rejected by the council, the Majority or not being able to receive the vote of the majority, it is my personal feeling the rules have been subverted and it has just been placed on the calendar to give the Republican Party the opportunity of debating an issue of trying to prevent debate on the issue.

I want my voice to be loud and clear, the vast members of my party are totally and unequivocally opposed to any calling of a Constitutional Convention, in this Nation's Capital. If you



wish to remove those two words from the Resolution you would get the support, perhaps, of the vast majority to at least allow this issue to be debated, with the exception of a Constitutional Convention.

The PRESIDENT: A Roll Call has been requested.

Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

With all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The Chair recognizes the Senator from Kennebec, Senator KATZ.

Senator KATZ: Mr. President, I can think of no logical reason why this has become a partisan issue, no logical reason at all. I spent the first week or so of this perplexing situation completely confused as to why the Democrat Leadership was attempting to put a muzzle on the entire Legislature, because consistently every single time we have attempted to get this matter before the elected representatives of the people, the Legislature has been muzzled by a handful of Democratic Leaders, I think they made a mistake when they started this charade. I think they are proceeding in a direction to, say the least, is politically unwise, and unsound from a parliamentary point of view. They objected to our introduction of a Memorial, they objected to our Joint Order, they objected to this Joint Resolution, and I just urge every member of this body to use some independent thought and ask whether you really do want to continue participating, in what is the gagging of the duly elected members of this Legislature, and preventing the kind of debate that is going on all over the United States? The Maine Legislature has earned the singular distinction of being the only Legislature in the United States where this issue is being barred from public debate by partisan considerations, the reasons for the partisan considerations completely escape me.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from York, Senator FARLEY.

Senator FARLEY: Mr. President and Members of the Senate.

The Minority Leader mentioned the vast majority of the Minority Party does not support a Constitutional Convention on a Balanced Budget, however, I want the Senate to know that that is not my position as a member of my party.

If the Order were to be presented here to Suspend Rule 35, I would gladly support Suspension of the Rules. I think that the Majority Leader is absolutely correct, this sort of thing should be debated, and should be given a public hearing, however, by the same token, I think, the Minority Leader is absolutely right; Rule 35, in my opinion, cannot be interrupted in any other way, except the way it has been interrupted by the Minority Leader. If the good Majority Leader and those in the Majority Party here want to submit an Order Suspending Joint Rule 35, I shall be the first to vote for it. Thank you very much.

The PRESIDENT: The pending question before the Senate is the Motion by the Senator from Kennebec, Senator KATZ, that this Joint Resolution be Referred to the Committee on Judiciary and Ordered Printed.

A Yes vote will be in favor of this Motion.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

YEA — Chapman, Collins, Devoe, Emerson, Gill, Hichens, Huber, Katz, Lovell, McBreairty, Perkins, Pierce, Redmond, Shute, Silverman, Sutton, Teague, Trotzky.

NAY — Carpenter, Clark, Conley, Cote, Farley, Martin, Minkowsky, Najarian, O'Leary, Pray, Trafton, Usher.

ABSENT — Ault, Danton.

A Roll Call was had.

18 Senators having voted in the affirmative and 12 Senators in the negative and 2 Senators being absent, the Motion to Refer this Resolution to the Committee on Judiciary and Printed does prevail.

Sent down for concurrence.

The President laid before the Senate the Second Tabled and specially assigned matter: JOINT RESOLUTION TO RATIFY AN AMENDMENT TO THE FEDERAL CONSTITUTION TO PROVIDE FOR REPRESENTATION OF THE DISTRICT OF COLUMBIA IN THE CONGRESS (H. P. 679) (L. D. 805).

Tabled—March 5, 1979 by Senator Pierce of Kennebec

Pending—Motion of Senator Katz of Kennebec to Refer to Committee on Judiciary and Print.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator KATZ.

Senator KATZ: Mr. President and Members of the Senate: This is a Joint Resolution under Article 5, this is the so-called DC Amendment. Many of us are for the amendment, some of us are against the amendment, but we feel in the Republican Party that justice should send this to a Committee for a Public Hearing, and that is the proper approach. On reference to Committee Mr. Chairman so that everybody can have a chance to be consistent I request a Roll Call.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Cumberland, Senator CONLEY.

Senator CONLEY: Mr. President and Members of the Senate: Again this is a Joint Resolution to ratify, an amendment that has already been enacted by both Houses of Congress. I think it is extremely nice of the good Senator from Kennebec, Senator Katz, to allow a Republican sponsored Resolution to appear before this body, without holding it in hostage.

The fact is, I believe again the vast majority of Democrats here, will support a joint hearing on this amendment, but again it is ratifying a Bill, that has already passed both Houses of Congress, and must be approved by two-thirds of the states of this land to become effective. What we are doing under the other Bill that is no longer before us, is it subverts Joint Rule 35, and again I would state that if the good Senator from Kennebec, Senator Katz wants to repeal that Joint Rule, then fine tell him to do it and perhaps we will follow with him.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator KATZ;

Senator KATZ: Mr. President it is a measure of the openness of this body that permits the Minority Leader to rationalize his inconsistencies, but is enjoyable nonetheless.

The PRESIDENT: Is the Senate ready for the question? The Chair recognizes the Senator from Androscoggin, Senator COTE.

Senator COTE: I think that it is about time, I got my feet wet in this body. I am opposing both of these Resolutions not because I am a Democrat, because I am a concerned citizen of these United States. First you open up the Constitutional Convention, I am afraid that somebody will get hold of this convention and mold laws or attack the constitution of these United States in a way that will be subversive to the best interests of our country.

As far as another resolution, in order to allow the District of Columbia to have representation in Congress, I feel the extra added expense to this country, something that would cost between \$3, and 4 million dollars to implement with all the salaries and all these things, so if we want to really balance the budget, this is one good way of cutting out about \$4 million

dollars. That is why I oppose both of these resolutions.

The PRESIDENT: Is the Senate ready for the question? Under the Constitution in order for the Chair to order a Roll Call, it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously, more than one-fifth having arisen a Roll Call is ordered.

The pending question before the Senate is the Motion by the Senator from Kennebec, Senator Katz, that this Joint Resolution be referred to the Committee on Judiciary and Ordered Printed.

A Yes vote will be in favor of that Motion.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

YEA — Carpenter, Chapman, Clark, Collins, Conley, Devoe, Emerson, Farley, Gill, Hichens, Huber, Katz, Lovell, Martin, McBreairty, Najarian, Perkins, Pierce, Pray, Redmond, Shute, Silverman, Sutton, Teague, Trafton, Trotzky, Usher.

NAY — Cote, Minkowsky, O'Leary.

ABSENT — Ault and Danton.

A Roll Call was had.

27 Senators having voted in the affirmative and 3 Senators in the negative, with 2 Senators being absent, the Motion to refer this Joint Resolution to the Committee on Judiciary and print does prevail.

Sent down for concurrence.

The PRESIDENT: The Chair would direct the Senate's attention to: Bill, "An Act to Include the Term "Sexual or Affectional Orientation" in the Maine Human Rights Act". (H. P. 673) (L. D. 860) which was tabled earlier in today's session.

On Motion by Senator Katz of Kennebec, referred to the Committee on Legal Affairs and Ordered Printed, in non-concurrence.

Sent down for concurrence.

Senator Hichens of York, was granted unanimous consent to address the Senate, Off the Record.

Senator Devoe of Penobscot, was granted unanimous consent to address the Senate, Off the Record.

Senator Pierce of Kennebec, was granted unanimous consent to address the Senate, Off the Record.

On Motion by Senator Huber of Cumberland, Adjourned until 10 o'clock tomorrow morning.