

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Tenth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 3, 1980 to May 1, 1981

KJ PRINTING
AUGUSTA, MAINE

HOUSE

Tuesday, March, 10, 1981

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

Prayer by the Reverend Herman C. Frankland of the Bangor Baptist Church.

The journal of yesterday was read and approved.

At this point, a message came from the Senate, borne by Senator Collins of that branch, proposing a Convention of both branches of the Legislature to be held at 11:00 a. m. in the Hall of the House for the purpose of extending to Chief Justice Vincent L. McKusick and the Supreme Judicial Court an invitation to attend the Convention and to make such communication as they may be pleased to make.

Thereupon, the House voted to concur in the proposal for a Joint Convention to be held at 11:00 a. m., and the Speaker appointed Representative Mitchell of Vassalboro to convey this message to the Senate.

Subsequently, Representative Mitchell reported that she had delivered the message with which she was charged.

Papers from the Senate

Bill "An Act to Provide Cost-of-living Adjustments to Retired State Employees, Teachers and Beneficiaries" (S. P. 385) (L. D. 1143)

Came from the Senate referred to the Committee on Aging, Retirement and Veterans and ordered printed.

In the House, was referred to the Committee on Aging, Retirement and Veterans in concurrence.

Bill "An Act to Limit the Amount of State Expenditures which may be made from Undedicated Revenues without Voter Approval" (S. P. 377) (L. D. 1135)

Bill "An Act to Increase the Compensation Paid to Judges and Justices" (S. P. 382) (L. D. 1140)

Came from the Senate referred to the Committee on Appropriations and Financial Affairs and ordered printed.

In the House, referred to the Committee on Appropriations and Financial Affairs in concurrence.

Bill "An Act to Exempt Certain Signs from the Billboard Law" (S. P. 378) (L. D. 1136)

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

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

Bill "An Act to Create a Department of Corrections" (S. P. 376) (L. D. 1134)

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

In the House, on motion of Mrs. Kany of Waterville, was referred to the Committee on State Government in non-concurrence and sent up for concurrence.

Bill "An Act to Reduce the Costs to Counties of Supreme Judicial and Superior Courts" (S. P. 379) (L. D. 1137)

Bill "An Act to Amend the Law Concerning Bail Commissioners" (S. P. 386) (L. D. 1144)

Bill "An Act to Allow Court Witnesses their Reasonable Expenses Subject to Certain Limits" (S. P. 387) (L. D. 1145)

Bill "An Act to Place Court Clerks and Assistants under the Judicial Department Personnel Classification Plan" (S. P. 384) (L. D. 1142)

Bill "An Act Concerning Cases which may be Heard in the District Court for the Division of Western Aroostook" (S. P. 380) (L. D. 1138)

Bill "An Act Concerning the Election Days in which Courts must Close" (S. P. 381) (L. D. 1139)

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

In the House, referred to the Committee on Judiciary in concurrence.

Bill "An Act Requiring Legislative Approval of Administrative Rules and Regulations" (S. P. 383) (L. D. 1141)

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

In the House, referred to the Committee on State Government in concurrence.

Petitions, Bills and Resolves

Requiring Reference

The following Bills and Resolutions were received and, upon recommendation of the Committee on Reference of Bills, were referred to the following Committees:

Appropriations and Financial Affairs

Bill "An Act to Appropriate Funds to Upgrade Facilities of the Maine Center for the Blind" (H. P. 997) (Presented by Representative Beaulieu of Portland)

(Ordered Printed)

Sent up for concurrence.

Business Legislation

Bill "An Act to Simplify the Requirements for the Granting of Permission to Additional Institutions To Use Established Satellite Facilities" (H. P. 998) (Presented by Representative Randall of East Machias)

Bill "An Act to Increase Certain Fees under the Funeral Directors and Embalmers Law" (H. P. 999) (Presented by Representative Soulas of Bangor)

Bill "An Act to Require Minimum Safety Requirements in the Construction and Installation of Heating Apparatus" (H. P. 1000) (Presented by Representative Beaulieu of Portland) (Cosponsor: Representative Theriault of Fort Kent)

(Ordered Printed)

Sent up for concurrence.

Education

Bill "An Act to Repeal the Teacher Certification Law" (H. P. 1001) (Presented by Representative Lewis of Auburn) (Cosponsor: Representative Leighton of Harrison)

Bill "An Act Concerning Tuition Reimbursement to Private Schools" (H. P. 1002) (Presented by Representative McGowan of Pittsfield) (Cosponsor: Representative Locke of Sebect)

(Ordered Printed)

Sent up for concurrence.

Election Laws

Bill "An Act to Prohibit Registration within 72 Hours of an Election" (H. P. 1003) (Presented by Representative Hutchings of Lincolnville) (Cosponsors: Representatives Curtis of Waldoboro and Cahill of Woolwich)

(Ordered Printed)

Sent up for concurrence.

Energy and Natural Resources

Bill "An Act to Establish Strict Penalties for Hazardous Waste Dumping and to Provide Specific Definitions of Hazardous Waste" (H. P. 1004) (Presented by Representative Jacques of Waterville)

(Ordered Printed)

Sent up for concurrence.

Tabled and Assigned

Bill "An Act to Amend the Spruce Budworm Suppression Act" (Emergency) (H. P. 1005) (Presented by Representative Davis of Monmouth) (Cosponsor: Representative Smith of Mars Hill)

Committee on Energy and Natural Resources was suggested.

On motion of Mr. Hall of Sangerville, tabled pending reference and tomorrow assigned.

Energy and Natural Resources cont'd.

Bill "An Act to Clarify the Permit Requirements for Large Hydroelectric Projects and to Protect Environmental Values" (H. P. 1006) (Presented by Representative Kany of Waterville) (Cosponsor: Representative Huber of Falmouth)

Bill "An Act to Limit the Storage of Spent Fuel at Nuclear Reactors" (H. P. 1007) (Presented by Representative Martin of Eagle Lake)

(Ordered Printed)

Sent up for concurrence.

Health and Institutional Services

Bill "An Act Concerning the Payment of Burial Expenses for Certain State Wards" (H. P. 1008) (Presented by Representative Cunningham of New Gloucester)

Bill "An Act Concerning Review of Fees for Providers under the Medical Assistance Program" (H. P. 1009) (Presented by Representative Boyce of Auburn)

(Ordered Printed)

Sent up for concurrence.

Judiciary

Bill "An Act to Limit Liability Regarding Donations to Food Banks" (H. P. 1010) (Presented by Representative Kany of Waterville) (Cosponsors: Representatives Moholland of Princeton, Michael of Auburn and Benoit of South Portland)

(Ordered Printed)

Sent up for concurrence.

Later Today Assigned

Bill "An Act to Make Drinking in an Unlicensed Public Place a Class E Crime" (H. P. 1011) (Presented by Representative Carrier of Westbrook)

Committee on Judiciary was suggested.

On motion of Mr. Cox of Brewer, tabled pending reference and later today assigned.

Labor

Bill "An Act to Establish a Voluntary System of Shared-work Unemployment Compensation" (H. P. 1012) (Presented by Representative Nadeau of Lewiston) (Cosponsors: Representatives Diamond of Bangor, Kane of South Portland and Baker of Portland)

(Ordered Printed)

Sent up for concurrence.

Legal Affairs

Bill "An Act to Provide the State Liquor Commission with Discretionary Authority to Refund Liquor License Fees when the Licensee has been Deprived Through no Fault of His Own" (H. P. 1013) (Presented by Representative Beaulieu of Portland)

(Ordered Printed)

Sent up for concurrence.

Local and County Government

Bill "An Act to Increase the Number of County Commissioners in York County" (H. P. 1027) (Presented by Representative Rolde of York)

Bill "An Act Converting Monhegan Plantation into the Town of Monhegan" (Emergency) (H. P. 1014) (Presented by Representative Curtis of Waldoboro) (Cosponsors: Senator Collins of Knox and Representative Nelson of Portland)

(Ordered Printed)

Sent up for concurrence.

State Government

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Allow Counties which have Adopted a Home Rule Charter to Provide for an Alternate Manner of Selecting the Register of Probate (H. P. 1015) (Presented by Representative Masterton of Cape Elizabeth)

RESOLUTION, Proposing an Amendment to

the Constitution of Maine to Repeal the Status of the Office of Sheriff" (H. P. 1016) (Presented by Representative LaPlante of Sabattus) (Cosponsor: Representative Paradis of Old Town)

Committee on Local and County Government was suggested.

On motion of Mr. LaPlante of Sabattus, the Resolutions were referred to the Committee on State Government, ordered printed and sent up for concurrence.

Public Utilities

Bill "An Act Relative to the Jurisdiction of the Public Utilities Commission over Nonutility Attachments to Public Utility Plant" (H. P. 1017) (Presented by Representative McKean of Limestone) (By Request)

Bill "An Act to Promote Increased Efficiencies in Thermal Electric Generating Facilities" (H. P. 1018) (Presented by Representative Kany of Waterville) (Cosponsors: Representatives Thompson of South Portland, Baker of Portland and Mitchell of Freeport)

(Ordered Printed)

Sent up for concurrence.

Transportation

Bill "An Act to Provide Photographic Nonalterable Drivers' Licenses and Other State Documents" (H. P. 1019) (Presented by Representative Nadeau of Lewiston) (Cosponsors: Representatives Paradis of Augusta and Nelson of Portland and Senator Ault of Kennebec)

Committee on State Government was suggested.

On motion of Mrs. Kany of Waterville, the Bill was referred to the Committee on Transportation, ordered printed and sent up for concurrence.

State Government

Bill "An Act to Provide Free Access for Legislators to State Parks, Camping Areas, Beaches and the Maine Turnpike" (H. P. 1020) (Presented by Representative Cunningham of New Gloucester)

(Ordered Printed)

Sent up for concurrence.

Transportation

Bill "An Act to Make all Drivers' License Information Confidential" (H. P. 1021) (Presented by Representative Kany of Waterville)

Committee on State Government was suggested.

On motion of Mrs. Kany of Waterville, the Bill was referred to the Committee on Transportation, ordered printed and sent up for concurrence.

Taxation

Bill "An Act to Amend Certain Property Tax Exemptions" (H. P. 1022) (Presented by Representative Chonko of Topsham) (Cosponsor: Representative Twitchell of Norway)

Bill "An Act to Provide a Tax Credit for Certain Hydroelectric Plants" (H. P. 1023) (Presented by Representative Locke of Sebec) (Cosponsor: Representative Davies of Orono)

Bill "An Act to Permit Municipalities to Charge a Service Fee on the University of Maine" (H. P. 1024) (Presented by Representative Manning of Portland) (Cosponsors: Representatives Webster of Farmington and Randall of East Machias)

Bill "An Act to Amend the Motor Vehicle Excise Tax Law to Provide for Certain Reimbursements" (H. P. 1025) (Presented by Representative Paul of Sanford)

(Ordered Printed)

Sent up for concurrence.

Transportation

Bill "An Act Concerning School Bus Inspections" (H. P. 1026) (Presented by Representa-

tive Hutchings of Lincolnville) (Cosponsor: Representative Curtis of Waldoboro)

(Ordered Printed)

Sent up for concurrence.

Special Sentiment Calendar

In accordance with House Rule 56, the following items (Expressions of Legislative Sentiment)

Later Today Assigned

Recognizing:

Mexico High School Boys' Basketball Team, 1981 Mountain Valley Conference Champions; (H. P. 1028) by Representative Perry of Mexico. (Cosponsor: Senator O'Leary of Oxford)

On motion of Mrs. Mitchell of Vassalboro, tabled pending passage and later today assigned.

In Memory Of:

Rhoda Olmstead of Limestone, a tireless worker on behalf of senior citizens; (H. P. 1029) by Representative McKean of Limestone. (Cosponsor: Senator Violette of Aroostook)

There being no objections, the above item was considered adopted and sent up for concurrence.

The following papers appearing on Supplement No. 1 were taken up out of order by unanimous consent:

Consent Calendar

First Day

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

(S. P. 151) (L. D. 359) Bill "An Act Pertaining to the Retention of Records for Closing-out Sales"—Committee on Legal Affairs reporting "Ought to Pass"

(S. P. 182) (L. D. 460) Bill "An Act to Amend the Law Concerning Cremation of old State Bonds"—Committee on State Government reporting "Ought to Pass"

(S. P. 212) (L. D. 577) Bill "An Act to Establish a Sign on the Maine Turnpike for the University of Southern Maine"—Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-34)

No objections being noted, the above items were ordered to appear on the Consent Calendar on March 11, under listing of the Second Day.

The following paper from the Senate appearing on Supplement No. 2 was taken up out of order by unanimous consent:

The following Communication: (S. P. 400)

State of Maine
Senate Chamber
President's Office
Augusta, Maine

March 6, 1981

Honorable Melvin A. Shute

Honorable Harold Cox

Chairmen, Joint Standing Committee on

Legal Affairs

State House

Augusta, ME 04333

Please be advised that Governor Joseph E. Brennan is nominating Charles H. Milan, III, of Brewer for appointment to the Maine State Liquor Commission.

Pursuant to Title 3 MRSA Section 151-A, this nomination will require review by the Joint Standing Committee on Legal Affairs and confirmation by the Senate.

Sincerely,

S/JOSEPH SEWALL

President of the Senate

S/JOHN L. MARTIN

Speaker of the House

Came from the Senate read and referred to the Committee on Legal Affairs.

In the House, the Communication was read and referred to the Committee on Legal Affairs

in concurrence.

The following paper from the Senate appearing on Supplement No. 3 was taken up out of order by unanimous consent:

Ought to Pass

Report of the Committee on State Government reporting "Ought to Pass" on Bill "An Act to Establish a Revolving Fund for the Maine State Library" (S. P. 185) (L. D. 463)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed.

In the House, the Report was read and accepted in concurrence, the Bill read once and assigned for second reading tomorrow.

House Reports of Committees

Divided Report

Majority Report of the Committee on Energy and Natural Resources reporting "Ought to Pass" on Bill "An Act to Require the Office of Energy Resources to make an Analysis of Sources of Fuel for the Replacement of Maine's Power Entitlement from the Maine Yankee Nuclear Power Plant" (H. P. 425) (L. D. 472)

Report was signed by the following members:

Representatives:

HALL of Sangerville
DAVIES of Orono
MITCHELL of Freeport
MICHAUD of East Millinocket
HUBER of Falmouth
MICHAEL of Auburn
JACQUES of Waterville

— of the House.

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Report was signed by the following members:

Senators:

McBREAIRTY of Aroostook
REDMOND of Somerset
O'LEARY of Oxford

— of the Senate.

Representatives:

KIESMAN of Fryeburg
AUSTIN of Bingham
DEXTER of Kingfield

— of the House.

Reports were read.

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

Mr. HALL: Mr. Speaker, I move that we accept the Majority "Ought to Pass" Report.

The SPEAKER: The gentleman from Sangerville, Mr. Hall, moves that the Majority "Ought to Pass" Report be accepted.

The Chair recognizes the gentleman from Fryeburg, Mr. Kiesman.

Mr. KIESMAN: Mr. Speaker, Ladies and Gentlemen of the House: I hope we don't accept the Majority "Ought to Pass" Report today.

If you will look at the bill, L. D. 472, it leaves out a requirement for the Office of Energy Resources to do certain analysis of the availability of power in the event of a closedown of Maine Yankee.

I would submit to you that the statute, Title 5, Section 5005, on the Office of Energy Resources — the powers and duties of the Office of Energy Resources shall. . . . And under Section 2 it says — compile a description and qualifications of the availability of various energy resources for the state. This assessment shall utilize the most current available data and include all resources that can potentially help meet Maine's energy needs. This task shall be accomplished on a biennial basis.

Further in Section B it says — prepare an energy policy to include but not limited to the direction or directions most feasible for Maine to pursue in the field of energy resources use and development.

It goes on throughout the statute to list the

duties and responsibilities of the Office of Energy Resources.

At the public hearing, the director of the Office of Energy Resources stated that there was no need of this legislation to perform the task that was being asked of him in this legislation, provided that he was allowed to continue on the same schedule that is called out in statute, which is to do this on a two-year basis. He said that if there was a desire, or if it was laid on, a responsibility to do this on a more frequent basis or to do a special report, it would require a fiscal note and additional funding for the office.

I think this is one of those L. D.'s that come before us very frequently that seem like a good idea until you look at what they are supposed to be doing now. If they are not doing it, we should jack them up and have them do the job they are supposed to do, but why put another statute on the books to tell them to do something they are supposed to do right now, and especially where the director of the office says, yes, I can do it; yes, I intend to do it; yes, I will do it.

I hope you will vote against the motion to accept this bill.

The SPEAKER: The Chair recognizes the gentlewoman from Falmouth, Mrs. Huber.

Mrs. HUBER: Mr. Speaker and Members of the House: The good gentleman has given you an accurate summary of the existing legislation, but I do feel that he has overlooked a statement in the Statement of Fact of L. D. 472, and that simply is that this bill emphasize — emphasize. In other words, what we are suggesting here to you today is that the legislature should emphasize the importance of determining what fuel sources might be available in the case, for any reason, of a shutdown of Maine Yankee.

Certainly some of us on the committee feel this is prudent. Certainly many people in the State of Maine who have concerns about nuclear power feel this is prudent. It is not unusual, it is not peculiar for the legislature to emphasize a particular area of interest. I hope you will vote for the Majority "Ought to Pass" Report.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Sangerville, Mr. Hall, that the Majority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

70 having voted in the affirmative and 55 having voted in the negative, the motion did prevail.

Whereupon, the Bill was read once and assigned for second reading tomorrow.

Divided Report Tabled Unassigned

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Undedicate the Highway Fund (H. P. 733) (L. D. 833)

Report was signed by the following members:

Senators:

TEAGUE of Somerset
EMERSON of Penobscot

— of the Senate.

Representatives:

MASTERMAN of Milo
TWITCHELL of Norway
DAY of Westbrook
BROWN of Bethel
INGRAHAM of Houlton

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" on same Resolution. Report was signed by the following members:

Senator:

WOOD of York

— of the Senate.

POST of Owl's Head
KILCOYNE of Gardiner
KANE of South Portland
HAYDEN of Durham
HIGGINS of Portland

— of the House.

Reports were read.

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

Mrs. POST: Mr. Speaker, I move we accept the Minority "Ought to Pass" Report.

The SPEAKER: The gentlewoman from Owl's Head, Mrs. Post, moves that the House accept the Minority "Ought to Pass" Report.

The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to urge you to accept the "Ought to Pass" Report. I do so as the sponsor of the bill. This is a Governor's bill but it also represents my point of view.

We have had this bill to undedicate the highway fund before us many many times before, and I don't know how much new information can be given about it or new discussion can be generated. I would like to make several points, however.

The first point I want to make about this bill is that it doesn't undedicate anything; it only asks the people if they would wish to undedicate the highway fund. Even if the people are to decide that they do, the option is still open to the legislature to rededicate statutorily. In many states, they do the statutory dedication of their highway fund.

There was a very smart gentleman back in 1945 who had the idea of putting the dedication of the highway fund in the State Constitution. Although I realize the people complain that we send too many things out in referendum, this is the only way that a constitutional amendment can be changed; it has to go to referendum. So the question then is, when the dedication of the highway fund was put in the Constitution in 1945, was it to be put there for all time? The people have never been asked that question, and now, in the light of new conditions, the question arises, should they be?

The new conditions that I speak of are, of course, the fact that our gasoline sales are dropping. Maine, in fact, in the last year, had the highest percentage drop in the sale of gasoline of any state in the Nation. Also, because of this factor, some new attitudes are being engendered towards the highway fund. In the past, the bill to undedicate was usually put in by people who wanted to get at those funds, because they felt that there was a great body of funds and that it could be used for some other purpose. Now I see an opposite attitude. Many I have talked to who say they are opposed to undedicating are opposed because they are afraid that the highway fund or the highway lobby will start reaching out for funds that have been used for other things.

We talked, and we have talked a lot in trying to deal with our dilemma of how to fund our highways, about long-time solutions, overall solutions, and it seems to me that this question of dedication vs. undedication has to be considered in that light.

Ask yourselves, will gas sales go up in the future, and should they? My own answers are that there is no way that gas sales are going to go up with the price of gasoline rising continually. My answer is also that I don't believe they should, because I think our national security depends on our getting out from under our dependence on Arab oil.

My objections to dealing with a potential gas tax increase or putting more funds into the highway system under this present arrangement are twofold. One, I see that if we do this, we are going to put ourselves in a situation where we just keep perpetuating the problem, because if we put gas taxes on, that is going to cause less gasoline to be bought and we are going to be continually back here looking for

more funds. The second is, I have very serious reservations about having a department, the Department of Transportation, dependent on gas tax revenues when it has the responsibility for transportation in all areas of the state, in other words, at a time when it may be very important for us to have public transportation, we have a department in charge of that that is depending on gas tax revenues.

The question again arises, what shall we do with this bill? Obviously, there does not seem to be enough support for a two-thirds. In the last session, the majority leader in the Senate had to even rescue it from being killed before it was referred to a committee. At least at this time we have gotten it to a committee and gotten it out with a report. So, should the strategy be — kill this bill now and then put on the pressure for a gas tax increase? If that is the thinking, I personally feel it will backfire, because those of us who have reservations about the present system will then have a perfect excuse to stand and fight against any gas tax increase or a sales tax on gasoline.

But speaking for myself, not for the Governor, I, frankly, don't think we can undedicate without putting more funds into the program. But at least this bill is a bargaining and a discussion point. Admittedly, it wouldn't solve this year's problem, and as people have charged, it won't put anything into the highway system, but it would be indication, if it is kept alive, of some willingness to negotiate. So, that is what I hope you will do today, vote to keep it alive. I would then like to see it tabled unassigned so we will have it if needed. But to kill it outright today, I feel, would give some of us, and I really don't know how many there are, at least an opportunity to rally around a new American slogan of "no taxation without undedication" and we would keep our feet in concrete. And it may be that those who are trying to find a solution don't much care about that, but I feel that a wiser course, no matter what your philosophical position on the funding of highways is, is to keep all of our options open, this one included.

The SPEAKER: The Chair recognizes the gentlewoman from Bethel, Miss Brown.

Miss BROWN: Mr. Speaker, Ladies and Gentlemen of the House: Being on the Taxation Committee this year, this has got to be one of the most controversial issues that I have had to deal with; it is a very difficult decision, but after much consideration, I have decided that I don't feel that undedicating the highway fund is the answer. I think it is one of the worst things we can do.

We are in a situation where state government is quite often putting departments into a budget situation where at the end of the year there is a lot of hurried expense and spending and various things because they can't carry budgets over and they don't want the money to lapse. I don't want to encourage a situation like that.

Also, I think you should be aware of the fact that there are 26 states in this country which have constitutional dedication of their highway funds, there are 19 in which the statutes dedicate their highway funds, and there are only 5 states which fund through the general fund — Alaska, Delaware, New Jersey, New York, and Rhode Island are the only states which attempt to do this.

I would like to ask for a division on this motion, Mr. Speaker.

The SPEAKER: The pending question is on the motion of the gentlewoman from Owl's Head, Mrs. Post, that the Minority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Higgins of Scarborough requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes;

those opposed will vote no.

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

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I rise today in opposition to this motion, but I guess most importantly I rise because of the scenario that the gentleman from York, Mr. Rolde, has outlined for us.

I think the important thing we need to remember on this particular issue is that this legislation, constitutional change, is not going to produce any money in this two-year biennium. It is not going to be the savior of the highway program for the next two years, and to say that we need to have this bill kicking around as a bargaining tool or a point of negotiation, I think is a poor facade on the critical situation that we face here in the state today. So, I am somewhat disturbed at those remarks. I feel that this bill ought to take its normal course, it ought to be voted on here, it ought to be voted on in the other body, and then let's continue down the road trying to solve our highway problems without a roadblock in our way, sitting on an unassigned table somewhere in this House.

It is inevitable, the outcome of this legislation, and I think to try to set it aside somewhere and to try to call it an item of negotiation is really a cruel hoax, so I hope you will vote against this motion.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: I think that probably we are faced with two crises here today — one is the crisis of funding the Department of Transportation or our highway system, and the other is whether this legislative body will be able to deal with this issue in any kind of meaningful way.

This is part of a package that we may or may not accept, and I think it is important that we deal with this issue and we deal with the other bills that are in the Committee on Transportation, Taxation and Appropriations, that we do so in a manner that does not close out any of our options and we do it in an area where we are all willing to sit down and discuss the issues and hopefully come up with a compromise to fund the Department of Transportation.

In addition, I just would like to make two comments. One is a reminder, since I have had this question asked of me a couple of times, that this is a constitutional amendment and we are taking the first step in approving a constitutional amendment. We have to, in each body, give two-thirds vote for this issue and then it goes out to the vote of the public. It has been many years since that has happened, times have changed, our dependency on the automobile has changed, the automobile has much more effect on our total economy, and I think it may be time for the people of this state to have a voice in how they want to fund their transportation system.

I think we here in Maine are particularly dependent on transportation. If you look at the geographical situation of Maine, our economy is very closely tied to the issue of transportation. We need in this state to take a look at the transportation problems as a whole, not take a look at the highway fund or the highways in isolation from our other transportation system. I think it is very ironic that we have a Department of Transportation, that is responsible for all the transportation needs in this state, with a majority of their income coming from a tax on a commodity, gasoline, which it ought to be in our whole Nation's interest to reduce our dependence on. If the Department of Transportation takes the step to reduce our dependence on gasoline, they are, at the same time, reducing their income. I think it is time to reevaluate that position, to say that we need to take a look at transportation needs as a whole and at least

send this out to a vote of the public.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Owl's Head, Mrs. Post, that the Minority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Armstrong, Baker, Beaulieu, Benoit, Boisvert, Boyce, Brannigan, Brenerman, Brodeur, Brown, A.; Carrier, Carroll, Carter, Chonko, Clark, Cox, Crowley, Davies, Davis, Diamond, G. W.; Diamond, J. N.; Dudley, Erwin, Fitzgerald, Fowle, Gowen, Gwadosky, Hall, Hayden, Hickey, Higgins, Hobbins, Jalbert, Joyce, Kane, Kany, Ketover, Kilcoyne, LaPlante, Laverriere, Lisnik, Livesay, Locke, Macomber, Mahany, Manning, Martin, A.; Martin, H. C.; Masterton, McCollister, McGowan, McHenry, McKean, McSweeney, Michael, Michaud, Mitchell, E. H.; Mitchell, J.; Murphy, Nadeau, Nelson, M.; Norton, Paradis, P.; Pearson, Perry, Post, Pouliot, Prescott, Racine, Reeves, P.; Richard, Ridley, Roberts, Rolde, Smith, C. B.; Soulas, Soule, Swazey, Telow, Theriault, Thompson, Tuttle, Vose, Webster, The Speaker.

NAY — Alopis, Armstrong, Austin, Bell, Berube, Bordeaux, Brown, D.; Brown, K. L.; Cahill, Callahan, Conary, Connolly, Cunningham, Curtis, Damren, Day, Dexter, Dillenback, Drinkwater, Foster, Gavett, Gillis, Hanson, Higgins, L. M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Kelleher, Kiesman, Lancaster, Leighton, Lewis, Livesay, Lund, MacBride, Masterman, Masterton, Matthews, McPherson, Murphy, Nelson, A.; O'Rourke, Paradis, E.; Perkins, Peterson, Randall, Reeves, J.; Salisbury, Sherburne, Small, Smith, C. W.; Stevenson, Stover, Strout, Studley, Tarbell, Treadwell, Twitchell, Walker, Wentworth, Weymouth.

ABSENT — MacEachern, Moholland.

Yes, 85; No, 64; Absent, 2.

The SPEAKER: Eighty-five having voted in the affirmative and sixty-four in the negative, with two being absent, the motion does prevail.

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

The SPEAKER: The Chair recognizes the gentleman from Vassalboro, Mrs. Mitchell.

Mrs. MITCHELL: Mr. Speaker, I move this lie on the table unassigned.

Whereupon, Mr. Higgins of Scarborough requested a roll call vote.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Vassalboro, Mrs. Mitchell, that this Bill be tabled unassigned pending passage to be engrossed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Baker, Beaulieu, Benoit, Boisvert, Boyce, Brannigan, Brenerman, Brodeur, Brown, A.; Carroll, Carter, Chonko, Clark, Connolly, Cox, Crowley, Davies, Diamond, G. W.; Diamond, J. N.; Dudley, Erwin, Fitzgerald, Fowle, Gowen, Gwadosky, Hall, Hayden, Hickey, Higgins, Hobbins, Jacques, Jalbert, Joyce, Kane, Kany, Kelleher, Ketover, Kilcoyne, LaPlante, Laverriere, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, A.; Martin, H. C.; McCollister, McGowan, McHenry, McKean, McSweeney, Michael, Michaud, Mitchell, E. H.; Mitchell, J.; Nadeau, Nelson, M.; Norton, Paradis, P.; Paul, Pearson, Perry, Post, Pouliot, Prescott, Racine, Reeves, P.; Richard, Ridley, Roberts,

Rolde, Smith, C. B.; Soulas, Soule, Swazey, Theriault, Thompson, Tuttle, Twitchell, Vose, Webster, The Speaker.

NAY — Alopis, Armstrong, Austin, Bell, Berube, Bordeaux, Brown, D.; Brown, K. L.; Cahill, Callahan, Carrier, Conary, Connors, Cunningham, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Gavett, Gillis, Hanson, Higgins, L. M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jordan, Kiesman, Lancaster, Leighton, Lewis, Livesay, Lund, MacBride, Masterman, Masterton, Matthews, McPherson, Murphy, Nelson, A.; O'Rourke, Paradis, E.; Perkins, Peterson, Randall, Reeves, J.; Salisbury, Sherburne, Small, Smith, C. W.; Stevenson, Stover, Strout, Studley, Tarbell, Telow, Treadwell, Walker, Wentworth, Weymouth.

ABSENT — Moholland.

Yes, 84; No, 66; Absent, 1.

The SPEAKER: Eighty-four having voted in the affirmative and sixty-six in the negative, with one being absent, the motion does prevail.

Consent Calendar

Second Day

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

(H. P. 478) (L. D. 527) Bill "An Act to Make Corrections in the Topsham Sewer District Charter"

(H. P. 355) (L. D. 403) Bill "An Act to Amend the Employment Security Law Relating to Payment of Extended Benefits of Interstate Claimants" (Emergency)

(H. P. 269) (L. D. 328) Bill "An Act to Amend the Law Relating to the Authorization for Degree-granting Authority for Higher Education Institutions"

(S. P. 88) (L. D. 185) Bill "An Act Requiring the Reporting of Reyes Syndrome by Persons Examining or Treating the Disease" (C. "A" S-33)

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

Second Reading

Later Today Assigned

Bill "An Act to Establish a Maine Set-aside Program under the State Purchasing Law to Expand Work Opportunities for Multiple Handicapped Citizens" (H. P. 224) (L. D. 261) (C. "A" H-75)

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

On motion of Mr. Dillenback of Cumberland, the House reconsidered its action whereby Committee Amendment "A" (H-75) was adopted.

The Same gentleman offered House Amendment "A" to Committee Amendment "A" (H-77) and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-77) was read by the Clerk.

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

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: The reason for this amendment, in committee when we had the original amendment, this bill was asking us to give 15 percent of all state work to the handicapped. This was cut down to 5 percent in our amendment. After we had the amendment and we had all signed it out a majority "ought to pass," we had the fiscal report come out that said it might cost the state, eventually, \$500,000. This was not our intent, we didn't have any idea that there would be any such expenditure. Consequently, this amendment limits the amount of work that could be done by these workshops to \$500,000 for the first year, that is 1981-82, and 1982-83, \$1 million. Now, the only cost to the state would be 5 percent of this amount, so the first year would be \$25,000 and

the second would be \$50,000. I question whether they would ever reach that amount, but in fairness we thought we should put a limit on it.

I hope you support this.

Thereupon, on motion of Mrs. Mitchell of Vassalboro, tabled pending adoption of House Amendment "A" to Committee Amendment "A" and later today assigned.

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

In Convention

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

On motion of Senator Collins of Knox, it was ORDERED, that a Committee be appointed to wait upon The Honorable Vincent L. McKusick, Chief Justice of the Supreme Judicial Court, and the Justices of the Supreme Judicial Court, and inform them that the two branches of the Legislature are in Convention assembled, ready to receive such communication as please them.

The Chairman appointed:

Senators:

DEVOE of Penobscot
CONLEY of Cumberland
KERRY of York

Representatives:

HOBBS of Saco
JOYCE of Portland
CARRIER of Westbrook
BENOIT of South Portland
SOULE of Westport
DRINKWATER of Belfast
LUND of Augusta
REEVES of Newport
LIVESAY of Brunswick
O'ROURKE of Camden

Subsequently, Senator Devoe, for the Committee reported that the Committee had delivered the message with which it was charged, and the Chief Justice was pleased to say that they would attend the Convention forthwith.

At this point, the Honorable Chief Justice of the Maine Supreme Judicial Court, Vincent L. McKusick, and the Justices of the Supreme Judicial Court entered the Convention Hall amid the applause of the Convention, the audience rising.

The Chief Justice then addressed the Convention as follows:

Mr. President, Mr. Speaker, Members of the 110th Legislature, and my fellow Maine Citizens:

My colleagues and I very much appreciate the opportunity to appear before this Joint Convention. It was almost exactly two years ago today that I last addressed the Legislature, at the first regular session of the 109th Legislature.

For the Judicial Branch, these past two years have been busy, productive and sometimes difficult ones. We have had many sound accomplishments in that two-year period, but I would not be candid with you if I did not report that many of our serious concerns of the past still press in upon us. Essential needs of the courts continue to grow in number and in magnitude, and the certain prospects of continued growth in our caseloads adds urgency to meeting those needs that already exist. Those unfilled needs some people would call problems — I prefer to view them as challenges, challenges that in the next several years need the best concerted attention of the Judicial Branch, the Legislature and the Chief Executive, all of us working together in our constitutionally mandated roles.

Before reporting to you on each of the courts, I would like to outline to you, would like to identify for you, the challenges as I see them that face the Judicial Branch in its operation.

First is the inadequacy of physical facilities. At many trial court locations we lack courtrooms or support facilities, or both, necessary

to try cases promptly, as they should be tried, or to conduct the clerical business of the courts efficiently, or to serve properly the public who have to come to court as jurors, witnesses, litigants, and so on.

We were keenly disappointed by the November defeat of the court facilities bond issue, which would have started to meet the capital construction needs of the courts. Those needs had been determined and confirmed and reconfirmed, first, by a comprehensive Judicial Department survey directed by Justice Archibald, then by the independent review by the Governor's Select Commission on Court Facilities, and finally by the judgment of the 109th Legislature that approved the bond issue by the requisite two thirds vote. Obviously, all of us are going to have to do a much better job in telling your story to the voters. Perhaps what you of the Legislature and we of the judiciary have failed to communicate to the public is that the use of court facilities is not limited to persons in trouble with the criminal law. For example, last year 61% of all cases in the District Court were civil cases. As we delay in meeting the courts' capital construction needs, the quality of justice suffers and also the ultimate burden on taxpayers goes up with inflationary construction costs.

A second challenge is posed to us by the problems of the county law libraries. Authorized in Maine since 1821, the county law libraries are essential working tools for the Law Court justices and for our trial judges in their work all over the state. But more than that, they are a critical public resource used not only by the bar, but also by those in government service and by the citizenry at large. When a society imposes upon its citizens a duty to know the law, when it undertakes to ensure to all, regardless of means, equal access to justice, and when it constitutionally guarantees every citizen the right of self-representation in court, that society shoulders a burden to provide for the dissemination of what the law is. Our county law libraries are bedrock institutions in our judicial system. We can't afford to let them become uselessly obsolete.

A third and overriding challenge is posed by the constantly increasing demands placed upon our courts. The courts are challenged to cope with our increasing workloads and at the same time maintain the quality and the reasonable promptness of our adjudications.

The growth in Judicial Department workloads comes both in the increased number of cases filed and I will give you some specifics on that later and also in increased work demands on judges or nonjudicial personnel for each case. Some of this growth in the number and complexity of litigation is traceable to legislation of the past dozen years that created new legal rights or new opportunities for legal controversy. For example, the environmental and consumer protection laws, the public employee labor relations statutes, and the Human Rights Act have added cases of more than average complexity to the court dockets. Some other statutes, such as the revised small claims law and the family abuse statute, also place extra work on the clerks' offices. I mention these facts not at all by way of complaint, for it is our constitutional responsibility to interpret and apply the laws you of the Legislature enact for the public good. Rather, I state these as facts to give you a better idea of the challenge the courts face in keeping up with the mounting demands upon them.

The Judicial Department's success in continuing to cope with increasing workloads will depend in large part on the resources made available to it. We recognize that an absolute duty rests on the Judicial Branch to make maximum use of the personnel, space, and equipment resources it already has. That we are doing. But the best management techniques will not be able to stave off for long the need for more resources. The Judicial Department has

not had the funds to take advantage of the kind of modern office equipment and information systems that are commonplace efficiency producers in the private sector. Word processing equipment and automated docketing, for example, hold great promise in the courts. Use of such modern equipment may well, over the long pull, be the only way the courts can both meet the ever-heavier demands placed upon them and also control the ravages of inflation.

Last month, another challenge, one which reaches our state courts, was put out by the Chief Justice of the United States. He sounded a call to arms to combat the criminal violence that is making hostages of us all in our schools, on our streets, and even with our own homes. Chief Justice Burger's proposals for remedying the problem of violence have received wide attention. The challenge they pose is whether our nation can gain the deterrence of "swift arrest, prompt trial, certain penalty, and — at some point — finality of judgment," without eroding our civil liberties. It is my personal belief that we can and must. Far more than 90 percent of all criminal prosecutions, as well as civil cases for that matter, are handled by the state courts. The specifics of Chief Justice Burger's suggested program would include trial within weeks of arrest in most cases and review on appeal within eight weeks of a conviction. Although our Maine courts have generally been able to bring criminal cases to trial with fair promptness, we must do even better, before the sure prospect of a speedy trial will have full deterrent effect sought by the Chief Justice. At some location we are now limited by a shortage of courtrooms and support facilities; and there we could get speedier criminal trials only at the expense of civil litigants. Also, to bring criminal cases to trial faster may require enlargement of some prosecutorial staffs. As for so many other problems, the solution ultimately comes down to having the resources to do the job.

In addition to that challenge laid down by Chief Justice Burger, these, then, are the principal challenges that I see our court system now facing — inadequate facilities, threatened county law libraries, and staggering caseloads. They are not going to be easily or quickly conquered. One thing is certain, we in the Judicial Branch cannot successfully deal with them without your active participation as legislators in the policy-setting and problem-solving process. We enlist you help in that cooperative effort.

This relationship of cooperation between us is nothing new. In recent years you have done much to help us in improving the efficiency of the Judicial Department. As just one example, you have by statute authorized us to make more flexible and efficient use of the Department's most valuable single resource — it judges. Now by statute, active retired justices of the Supreme Judicial Court may by assignment sit for any purpose in the Superior Court. Similarly, District Court judges may sit in Superior Court, and Administrative Court judges may be assigned to help out in the District Court. We have put those statutory changes to good use in the past two years.

You of the Legislative Branch carry weighty responsibilities in regard to the courts and the administration of justice in Maine. You are called upon to review and confirm the Governor's appointments to the bench. You appropriate the funds that are the life-blood of the courts. You determine the structure and jurisdiction of the judicial system. At every session, you have proposed to you and you consider a great number of proposals that affect the structure, available resources, operations, and purposes of the courts. The Judicial Branch stands ready at all times to provide information about court operations to help you in your deliberations.

In final analysis, the challenges that I have outlined require decisions on allocation of

public resources — decisions which are yours to make. In making those decisions, you legislators will be setting policy for the direction in which the Judicial Branch will move in the next few years. I pledge to you that given the needed resources the Judicial Department is able and willing, indeed eager, to go forth to meet the challenges ahead.

I realize the difficulties you face in stretching scarce public dollars to try to satisfy so many demands. The administration of justice in Maine must rank high in the scale of priorities. In this connection it is relevant to point out that the Judicial Department has traditionally made an insignificant demand on the State exchequer. In the last fiscal year, the operations of the Judicial Branch cost about \$9.7 million, only 8/10ths of 1 percent of the State budget, and of that almost 90% was raised by the courts themselves in fines and fees — making a net cost of only about \$1 million.

Let me now report briefly on the business of each of our Maine courts. The statistical report of the Administrative Office of the Courts will be distributed to you today, and I invite you detailed attention to it. I will start with our trial courts — the District Court, the Administrative Court, the Superior Court, and the 16 county probate courts. Although the probate courts operate under county budgeting and have elected, part-time judges, they are an important part of our judicial system. The probate courts are now working under the new Probate Code, which became effective the first of January. The Maine Legislature can take well-deserved satisfaction from the accomplishment of that major reform in probate, law and procedure. Acting on the Legislature's authorization the Supreme Judicial Court in December promulgated rules of procedure and probate forms required to be used in the settlement of decedents' estates and other probate practice.

The District Court is the foundation block of our judicial system — our largest volume court, sitting at 33 locations from Fort Kent to Kittery; it's the court with which the largest number of our citizens daily come into contact. Although such courts are usually called courts of limited jurisdiction, the Maine District Court has by statute been assigned more and more responsibility, so I like to call it our court of not-so-limited jurisdiction.

Statewide, the District Court, for example, handles 31 out of every 33 divorce cases, alone with all the sensitive questions of child custody and support and property division involved in that type of litigation. It had 7600 divorces cases filed with the District Court last year; Superior Court had some 460. I won't take the time to review for you all the varied and extensive jurisdictions of the District Court, but I would say the numbers are overwhelming. In 1979 and 1980, the District Court handled over 230,000 cases each year, and that represented a 35% increase in six years. There has been no increase in the 20 judges authorized for that court since 1973. Even with the help the District Court Judges have had from active retired judges and Administrative Court Judges, their caseloads are now beyond what can be properly handled without more help.

During 1979 and 1980, the Administrative Court has become fully integrated into the Judicial Department. The liquor violation cases heard by that Court have continued in about the same volume. Fortunately for the hard-pressed District Court judges, the Administrative Court judges have been able to commit large blocks of time to sitting in the District Court.

The Superior Court, with its 14 active justices and one active retired, is our trial court of general jurisdiction, our only court with a jury and with full equity powers. It also hears appeals from the countless administrative decisions of local and state agencies and from decisions of the District and Administrative Courts. The Superior Court is also very busy, receiving over 17,400 new filings in 1980, slight-

ly more than half of them being criminal cases. In the two years on which I'm here reporting, criminal case filings went up by 19% — and by much more than that in some counties.

On trial courts have been ready to experiment and innovate, in order to improve both the efficiency of their operations and their service to the public. In-court mediation, started experimentally in Portland in the District Court in late 1977, has come of age; it is now a regular feature of the District Court and is available at a sizeable number of its locations, as well as in the Superior Court.

Last month the Superior Court started an experiment in Androscoggin and Oxford Counties with telephone hearings of certain motions in civil cases. Hearings by telephone, which are also being tried out in other states, are designed to lessen lawyer travel and thereby reduce the cost of litigation.

In the Superior Court we have in process an in-depth study of our management and use of juries. Starting this month the clerks' offices in five counties have available a telephone recording system by which jurors may call in after 5:00 p.m. to find out whether they are needed for the following day. Through the telephone recording and through other improvements, we expect to effect worthwhile cost savings and to make jury service less burdensome for our citizens.

Finally, we are, with LEAA funding, in the midst of a one-year experiment with a coordinated assigned counsel system in Prosecutorial Districts IV and V — Kennebec, Somerset, Piscataquis and Penobscot Counties. This project is intended to improve the operation of our existing system, for meeting the constitutional obligations of the State to provide counsel to indigent, criminal defendants being tried on serious charges. Its objective is to provide some of the advantages of better organization such as a public defender system enjoys, while still making use of the private bar. I am convinced that the appointment of attorneys who otherwise engage everyday in private practice results in the State's meeting its constitutional obligation with high quality representation at substantially less cost than is possible with any other method.

I now turn to the Supreme Judicial Court. The Law Court is experiencing a rapid increase in the number of appeals reaching it; in this current court year, September to June, the Law Court expects to hear argument in about 350 cases, as compared with 270 only a year earlier — a one-third increase in one year. The bulge is mainly in civil cases, where the Court's efforts to simplify and speed up the appeals process has reduced the costs to the litigants in both money and time. In face of this larger caseload, it is becoming increasingly difficult for the Law Court to maintain its record of reasonably prompt decisions, but we are determined to do so.

To sum up, all our courts are very busy and they are steadily becoming even more so.

Before closing, I want to pay tribute to a departed colleague who rendered distinguished service first in the Legislature and then on the bench. Chief Judge Nicholas Danton was struck down unexpectedly at the height of his judicial career. He had served three terms in this House, one as co-chairman of the Judiciary Committee, and he served nine years on the District Court, the last four as its Chief. He was a true gentleman of natural dignity and of sound, practical judgment. Chief Judge Danton is sorely missed by his fellow workers in the Judicial Department.

I again thank you for this opportunity to report to you in person on the operations of the Judicial Branch. The quality of life in Maine is directly affected by the quality of our courts. All three of the great branches must steadily strive in cooperation to improve the administration of justice in Maine. In that joint effort, may I suggest we be imbued with the philoso-

phy of the great achiever Michelangelo, who prayed:

Lord, grant that we may always seek more than we may be able to achieve.

Yes, ladies and gentlemen of the Legislature, let us always keep our common goals high. Thank you so very much for your kind and your gracious attention. (Prolonged applause, the audience rising.)

At the conclusion of the address, Chief Justice McKusick and Justices of the Supreme Judicial Court withdrew amid the applause of the Convention, the audience rising.

The purpose for which the Convention was assembled having been accomplished, the Chairman declared the same dissolved.

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

In the House

The House was called to order by the Speaker.

Passed to Be Enacted

An Act Relating to the Raising of Wild Waterfowl in Captivity (H. P. 103) (L. D. 137) (C. "A" H-62)

An Act to Increase the Amount of Expenses Which May be Reimbursed to Members of the Inland Fisheries and Wildlife Advisory Council (H. P. 244) (L. D. 278) (H. "A" H-63 to C. "A" H-57)

An Act to Clarify Lobbyist Disclosure Procedures (H. P. 387) (L. D. 430)

An Act to Repeal the Law Preventing Hotels and Restaurants from Permitting Secular Business on Sunday (H. P. 466) (L. D. 518)

Were 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.

Orders of the Day

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

Bill, "An Act Relating to Pesticide Registration" (H. P. 4) (L. D. 4) — In House, Passed to be Engrossed on March 4. — In Senate, Majority "Ought Not to Pass" Report accepted in non-concurrence.

Tabled—March 6 by Representative Mahany of Easton.

Pending—Further Consideration.

On motion of Mr. Mahany of Easton, tabled pending further consideration and tomorrow assigned.

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

An Act to Allow Legislative Override of Legislative Council Action (S. P. 147) (L. D. 318) (S. "A" S-23 to C. "A" S-21) — In House, Indefinitely Postponed on March 3. — In Senate, Passed to be Enacted in non-concurrence.

Tabled—March 6 by Representative Kelleher of Bangor.

Pending—Further Consideration.

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

Mr. KELLEHER: Mr. Speaker, I move that the House adhere.

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Webster.

Mr. WEBSTER: Mr. Speaker, I move that the House recede and concur and would request a roll call vote.

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 desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is on the motion of the gentleman

from Farmington, Mr. Webster, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Austin, Bell, Bordeaux, Callahan, Carrier, Canary, Cunningham, Curtis, Davis, Dexter, Diamond, J. N.; Dillenback, Drinkwater, Gavett, Huber, Hunter, Jackson, Jacques, Jordan, Kany, Kiesman, Lewis, Lisnik, Macomber, Masterman, Masterton, McPherson, Michaud, Mitchell, J.; Murphy, Norton, Paradis, P.; Perry, Racine, Randall, Reeves, J.; Reeves, P.; Richard, Salisbury, Sherburne, Small, Smith, C. B.; Stevenson, Stover, Tuttle, Webster, Wentworth, Weymouth.

NAY—Aloupis, Armstrong, Baker, Beaulieu, Benoit, Berube Boisvert, Boyce, Brannigan, Brennerman, Brown, A.; Brown, D.; Cahill, Carroll, Carter, Chonko, Clark, Connolly, Cox, Crowley, Damren, Davies, Day, Diamond, G. W.; Dudley, Erwin, Fitzgerald, Foster, Fowlie, Gillis, Gowen, Gwadosky, Hall, Hanson, Hayden, Hickey, Higgins, Higgins, L. M.; Hobbins, Holloway, Hutchings, Ingraham, Jalbert, Joyce, Kane, Kelleher, Ketover, Kilcoyne, Lancaster, LaPlante, Laverriere, Leighton, Livesay, Locke, Lund, MacBride, MacEachern, Mahany, Manning, Martin, H. C.; Matthews, McCollister, McGowan, McHenry, McKean, McSweeney, Michael, Mitchell, E. H.; Nadeau, Nelson, A.; Nelson, M.; O'Rourke, Paradis, E.; Paul, Pearson, Perkins, Peterson, Post, Pouliot, Prescott, Ridley, Roberts, Rolde, Smith, C. W.; Soulas, Soule, Studley, Swazey, Tarbell, Telow, Theriault, Thompson, Treadwell, Twitchell, Vose, Walker, The Speaker.

ABSENT—Brown, K. L.; Connors, Martin, A.; Moholland, Strout.

Yes, 49; No, 97; Absent, 5.

The SPEAKER: Forty-nine having voted in the affirmative and ninety-seven in the negative, with five being absent, the motion does not prevail.

Thereupon, the House voted to adhere.

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

Mr. KELLEHER: Mr. Speaker, having voted on the prevailing side I now move reconsideration and hope you all vote against me.

A viva voce vote being taken, the motion to reconsider did not prevail.

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

Bill, "An Act to Increase the Eating, Lodging and Recreational Place Licensing Fee" (H. P. 63) (L. D. 97)

Tabled—March 6 by Representative Mitchell of Vassalboro.

Pending—Motion of the same gentlewoman to reconsider Adhering to Passage to be Engrossed as amended by House Amendment "A" (H-65).

On motion of Mrs. Prescott of Hampden, retabulated pending the motion of the gentlewoman of Vassalboro, Mrs. Mitchell, to reconsider adhering to passage to be engrossed as amended by House Amendment "A" and tomorrow assigned.

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

HOUSE DIVIDED REPORT—Majority (12) "Ought Not to Pass" — Minority (1) "Ought to Pass" — Committee on Judiciary on Bill, "An Act to Permit Blood Specimens to be Taken to Determine Blood-Alcohol Level Without the Defendant's Consent when the Defendant is Unconscious or Unable to Give Consent" (H. P. 274) (L. D. 306)

Tabled—March 9 by Representative Mitchell of Vassalboro.

Pending—Acceptance of either Report.

On motion of Mr. Hobbins of Saco, retabulated pending acceptance of either Report and specially assigned for Thursday, March 12.

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

SENATE DIVIDED REPORT—Majority (7) "Ought to Pass" — Minority (6) "Ought Not to Pass" — Committee on Energy and Natural Resources on Bill, "An Act to Reduce the Minimum Size for Exempt Lots Subdivided Under the Land Use Regulation Law" (S. P. 51) (L. D. 60) — In Senate, Majority "Ought to Pass" Report Read and Accepted and the Bill Passed to be Engrossed.

Tabled—March 9 by Representative Mitchell of Vassalboro.

Pending—Acceptance of either Report.

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

Mr. HALL: Mr. Speaker, I move that the House accept the Majority "Ought to Pass" Report. We have an amendment that I would like to have ready for second reader that will satisfy all the problems most people have.

Thereupon, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading tomorrow.

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

SENATE DIVIDED REPORT—Majority (7) "Ought to Pass" — Minority (6) "Ought Not to Pass" — Committee on Energy and Natural Resources on Bill, "An Act Concerning the Size of Exempt Lots under the Subdivision Laws" (S. P. 141) (L. D. 312) — In Senate, Majority "Ought to Pass" Report read and accepted and the Bill Passed to be Engrossed.

Tabled—March 9 by Representative Diamond of Windham.

Pending—Acceptance of either Report.

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

Mr. HALL: Mr. Speaker, I move that the House accept the Majority "Ought to Pass" Report. Again I would say that there is an amendment being prepared for this and I would like it to be ready for Second Reader. This will satisfy all sides who had trouble with it.

Thereupon, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for Second Reading tomorrow.

The Chair laid before the House the following matter:

Bill "An Act to Make Drinking in an Unlicensed Public Place a Class E Crime" (H. P. 1011) which was tabled earlier in the day and later today assigned pending reference.

On motion of Mr. Cox of Brewer, referred to the Committee on Judiciary, ordered printed and sent up for concurrence.

The Chair laid before the House the following matter:

Special Sentiment Calendar: Recognizing Mexico High School Boys' Basketball Team, 1981 Mountain Valley Conference Champions (H. P. 1028) which was tabled earlier in the day and later today assigned pending passage.

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

The Chair laid before the House the following matter:

Bill "An Act to Establish a Maine Set-aside Program under the State Purchasing Law to Expand Work Opportunities for Multiple Handicapped Citizens" (H. P. 224) (L. D. 261) (C "A" H-75) which was tabled earlier in the day and later today assigned pending adoption of House Amendment "A" to Committee Amendment "A" (H-77)

The SPEAKER: The Chair recognizes the gentlewoman from Auburn, Miss Lewis.

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: L. D. 261 is a bill designed to help handicap sheltered workshops. In brief, this bill, as amended, would allow contracts for every commodity and service in state government to be awarded to a sheltered workshop if

a workshop could bid within 5 percent of the lowest bidder. Sheltered workshops currently bid competitively and are sometimes awarded contracts.

When I saw the Committee Amendment to this bill, I expected it to have an enormous fiscal note. A high percentage of bids solicited by the Bureau of Purchases are presently awarded to bidders whose prices are less than one percent lower than the next bidder. The 5 percent differential allowed by this bill will guarantee that almost any item the state purchases that is made by workshops will be awarded to a workshop. If only one million dollars worth of goods were purchased at this 5 percent differential, the cost to the state would be \$50,000.

The original fiscal note for the amended version of L. D. 261 was one half million dollars. When I brought this to the attention of the State Government Committee, they changed the fiscal note by limiting it to \$25,000 — note the floor amendment that Mr. Dillenback has presented. How they can contain these costs, I do not know. Will the first come, first served operation go into effect where workshops bidding at the beginning of the fiscal year will be awarded contracts but other workshops bidding on a commodity let out near the end of the fiscal year would not be eligible for the set-aside program because that \$25,000 limit would have been reached? Incidentally, the limit for the second year would be \$50,000. I hope that someone from the committee will be able to explain how this cap on the fiscal note would be accomplished.

Many of you are probably thinking that these figures are low when one considers the plight of the handicapped in Maine, and I would like to point out to you, and you can refer to your budget document, that in fiscal year 1980, the Bureau of Vocational Rehabilitation spent \$5.3 million for the handicapped; the Bureau of Mental Retardation Service spent \$4.5 million for the handicapped and other state programs also provided aid to our handicapped citizens. More has been requested for fiscal years 1981 and 1982. By the way, there are only 8,500 clients for these funds.

I am not suggesting that we cease funding the programs that we already have; indeed, we must help our less fortunate neighbors. What I am suggesting is that L. D. 261 is not a good way to help these people.

The handicapped set-aside program proposed in L. D. 261 would put businesses already operating in Maine out of business. In this period of a recession, when many companies are laying off employees for lack of work, this legislation could be the final blow to some small businesses in our state. Private industry, which has kept down the cost of government by competitive bidding, would be forced to close for lack of contracts. At the same time, cost to the taxpayers would rise as government becomes more expensive.

Is this how we want to help our handicapped, by putting other Maine workers out of business and adding to our welfare rolls in other ways?

At a town meeting on Saturday, I spoke to the mother of a retarded child. She told me how important sheltered workshops are. In Auburn, our sheltered workshop has a wonderful relationship with local businesses. The retarded workers are enthusiastic workers and the local businesses are able to obtain goods that other people are not so anxious to make. However, this very same mother told me that she would favor L. D. 261 only as a last resort, only if sheltered workshops could not stay in business without that 5 percent differential. This is clearly not the case.

Furthermore, the workshops already have a competitive edge because they pay much less in minimum wage. We should continue to help our handicapped in Maine but we should not help them by enacting L. D. 261.

Mr. Speaker, I would request a division.

The SPEAKER: The Chair would like to, at this time, clarify that the pending question before the House is not on the bill. The pending question before this body is on the amendment which has been presented by the gentleman from Cumberland, Mr. Dillenback, on adoption of House Amendment "A" to Committee Amendment "A".

I would ask the members to restrict their remarks to that amendment.

The Chair recognizes the gentleman from Presque Isle, Mr. Lisnik.

Mr. LISNIK: Mr. Speaker, Members of the House: This bill and this amendment is an excellent bill and a result of a series of bipartisan compromises over the past several weeks.

The original bill proposed a 15 percent preference to sheltered workshops. We have compromised that down to 10 percent and again down to 5 percent.

The original bill entailed a committee to identify goods workshops that could produce, with additional responsibilities to make suggestions to the State Purchasing Agent. This committee was objected to and has been eliminated as a compromise. Yesterday, we received this price tag of \$500,000 indicating the ultimate possible expenditure, that's if they applied and got every single bid. Again, as a compromise, we placed this limitation of \$25,000 for fiscal year 1981-1982. The contracts are already out so we probably won't even reach anything near this, and \$50,000 for fiscal year 1982-1983 and, again, we probably will not reach that. These compromises were hammered out in an effort to offer a meaningful program to the handicapped citizens of this state and to protect private industry.

This is a good bill and I urge that you support L. D. 261 as amended by this House Amendment.

The SPEAKER: The Chair will order a vote. The pending question before the House is on adoption of House Amendment "A" to Committee Amendment "A". Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

113 having voted in the affirmative and 5 in the negative, House Amendment "A" to Committee Amendment "A" (H-77) was adopted.

Committee Amendment "A" as amended by House Amendment "A" (H-75) thereto was adopted.

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

On motion of Miss Bell of Paris, the House reconsidered its action whereby the Bill passed to be engrossed as amended.

The SPEAKER: The Chair recognizes the gentleman from Paris, Miss Bell.

Miss BELL: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to share a few comments in support of the process that we have gone through on this bill. In State Government, we heard the bill over a month ago and we have gone through at least four different work sessions. I probably raised some of the major objections with this bill, and my concerns were around the cost to the state of Maine as well as the situation forcing out competing organizations in the private sector and also the concept of competitive bidding.

I would agree with Mr. Lisnik that we changed this bill many ways. I think the amendment is in line with the intent of the committee. I would just say that it was a unanimous report and we seriously did consider this bill.

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

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: I realize it has been a long morning and I don't mean to belabor this, but I can't let the good lady from Auburn stand alone on this.

I want to, first of all, applaud her courage, I

think it takes courage to stand and run the risk of being misinterpreted when you deal with a bill that talks to the handicapped. Someone can read your action as being opposed to a governmental role in assisting the handicapped. I don't think she meant that at all and neither do I. I support a state role in helping the handicapped to the extent that that needs to be done, but I think there is a great danger in confusing or using the purchasing function for our state government in achieving social goals. I think we have done this many, many times, probably because people don't want to be read as being opposed to helping the handicapped at all.

I think if more money needs to go in subsidizing the handicapped in manufacturing their goods, I think it ought to go in at the outset and probably from the Department of Human Service. I think the role of the purchasing function in the state should be restricted to getting the best possible product for the taxpayers of this state at the lowest possible price.

I would urge you to give good thought to the remarks of the good lady from Auburn. Again, I applaud her courage for willing to stand alone on principle, and I would ask for a roll call.

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

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

The SPEAKER: The Chair recognizes the gentleman from Cape Elizabeth, Mrs. Masterton.

Mrs. MASTERTON: Mr. Speaker, Ladies and Gentlemen of the House: I, too, had some problems initially with this bill, but as it went along and we made our amendments, I really came to believe in it. I think it should be clear that we already have precedence for this kind of favoring of a segment of our population. In the statutes already we have language regarding the blind and the state buys brooms from the blind workshop in Portland.

We also passed a bill a couple of years ago to give percentage advantage to farmers who wish to sell their produce, their locally grown produce, to state institutions. So, we do have a precedent for this and I personally believe that the state ought to be setting an example for putting handicapped people to work, giving them something to live for and giving them dignity from making a living.

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

Mr. LISNIK: Mr. Speaker, Ladies and Gentlemen of the House: Representative Lewis is incorrect. The original bill does state goods and services to be purchased.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Miss Lewis.

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to respond briefly to several of the comments that have been made this morning. Mr. Lisnik and Miss Bell both spoke on how their committee had compromised on this bill, and I certainly do commend the committee on State Government for their hard work. Unfortunately, the bill which they came out with, which they thought was a weaker version of the original L. D. 261, is, in fact, a much stronger version of it. The original version of this bill would say that a handicapped set-aside committee would identify just certain commodities, such as wiping cloths, to go to these handicapped sheltered workshops. The present amended version of this bill does not specify commodities, and this means that the entire janitorial contract for the state of Maine involving many state employees could indeed go to a handicapped sheltered workshop, as could the printing contract for the state of Maine, which is another sizable thing.

I would also like to respond to Mrs. Masterton's comments about precedents. Several years ago a bill was presented to the legislature that would allow business within the state of Maine a few percent and not even 5 percent advantage over out-of-state bidders. This was to help Maine business and Maine taxpayers. The bill died in committee because it was thought to be unfair to out-of-state bidders and thought to be potentially very costly to the state of Maine. L. D. 261 is even more unfair to Maine business and will be very costly to the state treasury.

I do believe that we must help our handicapped neighbors. I do believe that we should continue to help them through the vocational rehabilitation programs and the Bureau of Mental Retardation that we already have. I do not believe that we should help them by putting the very Maine taxpayers that are helping the handicapped by subsidizing these state programs out of business. I do hope that you will vote against this bill.

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

Mr. LISNIK: Mr. Speaker, Ladies and Gentlemen of the House: Representative Lewis is incorrect. The original bill does state goods and services to be purchased.

The SPEAKER: A roll call has been ordered. The pending question before the House is on passage to be engrossed as amended. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Austin, Baker, Beaulieu, Bell, Benoit, Berube, Boyce, Brannigan, Brennerman, Brodeur, Brown, A.; Cahill, Carrier, Carroll, Carter, Chonko, Clark, Connolly, Cox, Crowley, Cunningham, Davies, Dexter, Diamond, G. W.; Diamond, J.N.; Dillenback, Drinkwater, Dudley, Erwin, Fitzgerald, Foster, Fowlie, Gillis, Gowen, Gwadosky, Hall, Hanson, Hayden, Hickey, Higgins, Higgins, L.M.; Hobbins, Holloway, Huber, Ingraham, Jackson, Jacques, Joyce, Kane, Kany, Kelleher, Ketover, Kilcoyne, Lancaster, LaPlante, Laverriere, Lisnik, Livesay, Locke, Lund, MacBride, MacEachern, Macomber, Mahany, Manning, Martin, H.C.; Masterton, Matthews, McGowan, McHenry, McKean, McPherson, McSweeney, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Murphy, Nadeau, Nelson, M.; Norton, O'Rourke, Paradis, E.; Paradis, P.; Paul, Pearson, Perry, Post, Pouliot, Prescott, Racine, Randall, Reeves, J.; Reeves, P.; Richard, Ridley, Roberts, Rolde, Salisbury, Small, Smith, C.B.; Soulas, Soule, Stevenson, Stover, Strout, Studley, Swazey, Telow, Theriault, Thompson, Tuttle, Twitchell, Vose, Walker, Webster, The Speaker.

NAY — Armstrong, Bordeaux, Brown, D.; Brown, K. L.; Callahan, Connors, Curtis, Damren, Davis, Day, Gavett, Hunter, Hutchings, Jordan, Kiesman, Leighton, Lewis, Masterton, McCollister, Nelson, A.; Perkins, Peterson, Sherburne, Smith, C. W.; Tarbell, Treadwell, Wentworth, Weymouth.

ABSENT — Boisvert, Canary, Jalbert, Martin, A.; Moholland.

Yes, 118; No, 28; Absent, 5.

The SPEAKER: One hundred eighteen having voted in the affirmative and twenty-eight in the negative, with five being absent, the Bill is passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto and sent up for concurrence.

(Off Record Remarks)

On motion of Mr. Fowlie of Rockland, Adjourned until ten o'clock tomorrow morning.