

MAINE STATE LEGISLATURE

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



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

LEGISLATIVE RECORD

OF THE

***One Hundred and Twelfth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 5, 1984 - June 20, 1985

STATE OF MAINE
One Hundred and Twelfth Legislature
First Regular Session
JOURNAL OF THE SENATE
In Senate Chamber
Thursday
February 21, 1985
Senate called to order by the Secretary.

The Secretary requested that the Sergeant-at-Arms escort the Senator from York, Senator DANTON to the rostrum to assume the duties of President Pro-tem.

Prayer by the Reverend Robert Hargreaves of St. Mark's Episcopal Church of Augusta.

REVEREND HARGREAVES: Let us pray! O God, the Creator of all the peoples of the earth. All help and all power rests in You.

Look with favor upon the Members of this Senate and guide them in their formal deliberations and informal conversations, that they may remember Who gave them life and Who sustains them; and that what they accomplish in this session may give You glory, and serve the good of all the people of this State.

We ask this in the Name of Jesus Christ, our Lord. Amen.

Reading of the Journal of Yesterday.

Out of Order and Under Suspension of the Rules;

On Motion by Senator PEARSON of Penobscot, the following Joint Order: (S.P. 256)

ORDERED, the House concurring, that when the House and Senate Adjourn, they adjourn to Tuesday, February 26, 1985, at 10:00 in the morning.

Which was READ and PASSED.

Sent down forthwith for concurrence.

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Reimburse the Unorganized Territory Education and Services Fund for Overcharges from 1978 to 1983" (S.P. 221) (L.D. 584)

In Senate February 19, 1985, referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED.

Comes from the House, referred to the Committee on TAXATION and ORDERED PRINTED in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

House Papers

Joint Resolution

The Following Joint Resolution: (H.P. 449)
JOINT RESOLUTION ON THE OCCASION
OF THE BICENTENNIAL OF
THE TOWN OF SHAPLEIGH

WHEREAS, "A thing of beauty is a joy forever; Its loveliness increases; it can never pass into nothingness;" and

WHEREAS, the citizens of the Town of Shapleigh have known that special joy of seeing their town increase in loveliness since its earliest settlement; and

WHEREAS, before the tide of civilization began to set back into the unbroken forest, sturdy oak and "broad-arrow" pine stood majestically marking this special spot; and

WHEREAS, from the peaceful shores of Square Pond and Mousam Lake, across broad fertile plains to the heights of Fort Ridge this town was shaped, as a jewel is cut, out of rough wilderness; and town was shaped, as a jewel is cut, out of rough wilderness; and

WHEREAS, "they who entered this wilderness, subdued these forests, reared the abodes of comfort, located and made these roads and planted these institutions of learning morality and religion have all gone; ... but their names, their deeds, their memories, linger behind" and the beautiful town that is Shapleigh forever remains a joy to all and shall

never pass into nothingness; now, therefore, be it

RESOLVED: That We, the Members of the Senate and House of Representatives of this the 112th Legislature of the great and sovereign State of Maine, now assembled in Regular Session, take this opportunity to join with the citizens from across the State and our Nation to congratulate the Town of Shapleigh on this the 200th anniversary of its incorporation, March 5, 1985, and in commending its officials and citizens for the success of this community which they achieved together, offer to each our sincere hopes and best wishes for continued success for the future; and be it further

RESOLVED: That a duly attested copy of this resolution be transmitted forthwith to the town officials and the bicentennial committee of this proud community in honor of this historic occasion.

Comes from the House READ and ADOPTED.

Which was READ and ADOPTED, in concurrence.

COMMUNICATIONS

The Following Communication: (H.P. 448)

STATE OF MAINE
DEPARTMENT OF STATE
STATE HOUSE STATION 101
AUGUSTA, MAINE 04333

DIVISION OF PUBLIC ADMINISTRATION

February 19, 1985

To the Honorable 112th Legislature of the State of Maine

Attention: House of Representatives, Clerk Pert Info: Senate, Secretary O'Brien

I have the honor to transmit herewith an initiated bill, "AN ACT to Require Voter Approval of the Disposal of Low-Level Radioactive Waste," and the results of the examination by this office of the initiative petitions to it.

The minimum number of valid signatures required to initiate this legislation is 46,030. Between January 9 and January 24, 1985, our office received 2922 petitions. After extensive reviews we have determined the number of valid signatures to be 48,251.

In view of the foregoing determination, I hereby certify that these petitions have met the constitutional requirement of the minimum of 46,030 valid signatures. Since the petitions have previously satisfied the constitutional requirements in all other respects, under the provisions of Article IV, Part Third, Section 18, of the Constitution of Maine, I do hereby declare this initiative petition to be valid.

In the event the Legislature rejects this initiative proposal, a referendum election will be called for November, 1985.

Respectfully,

S/ JAMES S. HENDERSON
Deputy Secretary of State

Comes from the House, READ and ORDERED PLACED ON FILE.

Which was READ and ORDERED PLACED ON FILE, in concurrence.

The Initiated Bill, "An Act to Require Voter Approval of the Disposal of Low-Level Radioactive Waste" (I.B. 1) (L.D. 615)

Comes from the House, referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED.

Which was referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED, in concurrence.

(Off Record Remarks)

The Following Communication: (S.P. 257)
112th MAINE LEGISLATURE
AUGUSTA, MAINE 04333

February 20, 1985

Senator Georgette B. Berube
Representative Merle Nelson
Chairpersons
Committee on Human Resources
112th Legislature

Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Sandra K. Prescott of Bucks Harbor for appointment as Chair of the State Health Coordinating Council.

Pursuant to Federal Law, P.L. 96-79 Section 1524 (b) (2) of the Health Planning and Resources Development Amendments, this nomination will require review by the Joint Standing Committee on Human Resources and confirmation by the Senate.

Thank you for your assistance in this matter.

Sincerely,
S/ CHARLES P. PRAY

President of the Senate

S/ JOHN L. MARTIN

Speaker of the House

Which was READ and referred to the Committee on HUMAN RESOURCES.

Sent down for concurrence.

SENATE PAPERS

Bill "An Act Relating to Payment of Back Contributions and Withdrawn Contributions by Members of the Maine State Retirement System" (S.P. 241) Presented by Senator GAUVREAU of Androscoggin Cosponsored by: Representative McSWEENEY of Old Orchard Beach, Representative FARNOW of South Berwick

Bill "An Act to Clarify the Maine State Retirement System's Board of Trustees' Relationship with the System's Investment Managers" (S.P. 242) Presented by Senator GAUVREAU of Androscoggin Cosponsored by: Representative McSWEENEY of Old Orchard Beach, Representative RICHARD of Madison

Bill "An Act Relating to the Allowance of Prior Service Credit under the Maine Retirement Law for Military Service" (S.P. 243) Presented by Senator DOW of Kennebec Cosponsored by: Senator BALDACCI of Penobscot, Representative HICKEY of Augusta

Which were referred to the Committee on AGING, RETIREMENT AND VETERANS and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Adopt a State Uniform Fraudulent Transfer Act" (S.P. 244) Presented by Senator TRAFTON of Androscoggin Cosponsored by: Senator CARPENTER of Aroostook, Representative KANE of S. Portland, Representative DAVIS of Monmouth (See action later today)

Bill "An Act to Repeal the Law Permitting the Purchase of Alcoholic Beverages with Major Credit Cards" (S.P. 245) Presented by Senator WEBSTER of Franklin

Which were referred to the Committee on BUSINESS AND COMMERCE and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act Concerning School Prayer" (S.P. 246) Presented by Senator TUTTLE of York Cosponsored by: Senator HICHENS of York

Which was referred to the Committee on EDUCATION and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Create the Advisory Commission on Radioactive Waste to Replace the Low-level Waste Commission" (Emergency) (S.P. 247) Presented by Senator KANY of Kennebec Cosponsored by: Senator USHER of Cumberland, Representative MILLS of Bethel, Representative MITCHELL of Freeport

Which was referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Provide for Mandatory Loss of Operator License for Minors Operating Under the Influence" (S.P. 248) Presented by Senator DUTREMBLE of York

Committee on **JUDICIARY** suggested.

On motion by Senator **TRAFTON** of Androscoggin referred to the Committee on **LEGAL AFFAIRS** and **ORDERED PRINTED**.
Sent down for concurrence.

Bill "An Act Concerning Small Business Apprenticeship Programs" (S.P. 249) Presented by Senator **TUTTLE** of York Cosponsored by: Representative **HEPBURN** of Skowhegan

Bill "An Act to Limit the Duplication of Benefits under the Workers' Compensation Act" (S.P. 250) Presented by Senator **TWITCHELL** of Oxford Cosponsored by: Representative **JACKSON** of Harrison, Representative **ARMSTRONG** of Wilton

Which were referred to the Committee on **LABOR** and **ORDERED PRINTED**.
Sent down for concurrence.

Bill "An Act Concerning the Standards for Handicapped Restricted-use Elevators" (S.P. 251) Presented by Senator **BALDACCI** of Penobscot Cosponsored by: Senator **HICHENS** of York

Bill "An Act to Allow a Landlord to Enter a Rental Unit if the Rental Unit Reasonably Appears to have been Vacated Permanently and no Notice has been Given" (S.P. 252) Presented by Senator **MAYBURY** of Penobscot Cosponsored by: Representative **HANDY** of Lewiston, Representative **MURPHY** of Berwick

Bill "An Act to Provide Protections to Boxers" (S.P. 253) Presented by Senator **HICHENS** of York Cosponsored by: Senator **BROWN** of Washington, Senator **ANDREWS** of Cumberland

Which were referred to the Committee on **LEGAL AFFAIRS** and **ORDERED PRINTED**.
Sent down for concurrence.

Bill "An Act to Amend the Municipal Revenue Producing Facilities Act" (S.P. 254) Presented by Senator **ANDREWS** of Cumberland

Which was referred to the Committee on **LOCAL AND COUNTY GOVERNMENT** and **ORDERED PRINTED**.

Sent down for concurrence.

Resolve, to Instruct the State Planning Office to Conduct a Study as to the Feasibility and Effect of a Constitutional Amendment to Value and Assess all Real Property at its Current Use" (S.P. 255) Presented by Senator **SEWALL** of Lincoln

Which was referred to the Committee on **TAXATION** and **ORDERED PRINTED**.

Sent down for concurrence.

COMMITTEE REPORTS

House

Leave to Withdraw

The following **Leave to Withdraw** reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act Relating to Employment by School Administrative Unit, School Union and Academy" (H.P. 13) (L.D. 12)

Bill "An Act to Prohibit Discrimination Based on Residency by Innkeepers" (H.P. 101) (L.D. 126)

Bill "An Act to Reduce the Requirement of State Service in Order to Apply Credit for Military Service" (H.P. 150) (L.D. 184)

Bill "An Act Concerning Minimum Wholesale Prices under the Maine Milk Commission Law" (H.P. 211) (L.D. 245)

Bill "An Act Concerning the Use of False Identification to Procure Alcoholic Beverages" (H.P. 278) (L.D. 348)

Senate

Ought to Pass As Amended

Senator **KANY** for the Committee on **STATE GOVERNMENT** on Resolve, Authorizing the Director of Parks and Recreation to Convey by

Deed the Interest of the State of Maine in Certain Parcels of Real Property. (S.P. 37) (L.D. 45)

Reported that the Same **Ought to Pass as Amended by Committee Amendment "A" (S-4)**

Which Report was **READ** and **ACCEPTED**.
The Bill **READ ONCE**.

Committee Amendment "A" (S-4) **READ** and **ADOPTED**.

The Bill as **Amended TOMORROW ASSIGNED FOR SECOND READING**.

SECOND READERS

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

Senate

Bill "An Act to Amend the Law Concerning the Student Incentive Scholarship Program Under the Education Law" (S.P. 68) (L.D. 119)

On further motion by Senator **BROWN** of Washington, Tabled for 1 Legislative Day, pending **PASSAGE TO BE ENGROSSED**.

On further motion by same Senator, the Senate **RECONSIDERED** its action of earlier in today's session whereby it referred to the Committee on **BUSINESS AND COMMERCE** and **ORDERED PRINTED**.

Bill "An Act to Adopt a State Uniform Fraudulent Transfer Act" (S.P. 244)

On motion by Senator **TRAFTON** of Androscoggin, Tabled for 1 Legislative Day, pending **REFERENCE**.

Senator **PEARSON** of Penobscot was granted unanimous consent to address the Senate On the Record.

Senator **PEARSON**: Mr. President Pro-tem, Men and Women of the Senate, yesterday the Land Use Regulation Commission met to prepare itself on hearings to review the proposal of the Great Northern Paper Company with regard to the so-called "Big 'A' Dam".

One of the issues that the meeting addressed itself to was whether the Commission, in its deliberations in considering that proposal, should look at alternatives that might be put in place, or purchased, or whatever, instead of constructing the dam. It was the position of the Great Northern Paper Company people, at least at the very beginning, that there should be no other alternatives explored.

I wish that I had been there, but I have had reports on that Commission meeting. Senator Judy Kany of Waterville was there, and I would like to commend her, because she made the point to the Commission that it would be folly not to consider every alternative that you might have in front of you, with regard to providing power for any project in Maine.

I think it is unfortunate that the Great Northern Paper Company, at least initially, took that position. I think it was very fortunate that Senator Kany was there to make the point that all avenues should be explored; because, if the Federal Energy Regulatory Commission, when they get around to licensing this, would require that anyway, and that for our standards to be less than theirs, would be silly.

Senator **KANY** of Kennebec was granted unanimous consent to address the Senate On the Record.

Senator **KANY**: Thank you very much, Mr. President Pro-tem and Members of the Senate. I appreciate the remarks of the Senator from Penobscot, Senator Pearson, who also served on the Energy and Natural Resources Committee during the development of the Maine Rivers Act in 1983.

I'd like to tell you all that that law is really still being developed. We passed that major legislation in 1983, and we amended it last year, in 1984, regarding the time period that the Land Use Regulation Commission (LURC) could have in looking at an application and still the rules are not yet adopted regarding the 1983 Act. LURC and the DEP, which has

jurisdiction within the organized territories, together, are really developing the rules regarding hydropower licensing, and the one area that they have not yet finalized has to do with looking at alternatives. I think it is important to note where we're coming from, and all this, that FERC, the Federal Energy Regulatory Commission has historically, completely preempted the area of making determinations regarding hydropower licensing on all navigable streams, and streams that you and I would not consider are navigable; now then considered navigable by FERC, and FERC has made the determination that there would be hydroelectric facilities being developed on those spots.

It certainly, obviously, was the clear intent of the State of Maine, to wish to replace FERC's decision with the decision made here in Maine, by Maine people, instead of having a decision made by FERC with a full-time seven-member Commission of Washington, D.C. people. We hope, at the very least, that if our law were not allowed to preempt first decision, that FERC, at least, abide by the decision made by the people of Maine regarding any hydropower licensing. That was obviously the clear intent and nowhere, from no place, from no one, did I ever hear that it was intent of anyone in Maine to abide by a lesser standard than FERC's, and FERC requires alternatives to be looked at for hydropower licensing.

I really do think it would be simply commonsensical for us to look at alternatives when we're looking at using a natural resource owned by all the people of Maine. Ultimately, whatever the decision is made on the big "A", or any other hydropower licensing project, certainly the alternatives to using that natural resource should be part of any requirement.

We presently, by the way, in our Public Utility Law look at the alternatives to any particular project that is being proposed.

(Off Record Remarks)

The **ADJOURNMENT ORDER** have been returned from the House, **READ** and **PASSED**, in concurrence, on motion by Senator **PEARSON** of Penobscot, **ADJOURNED** until Tuesday, February 26, 1985, at 10 o'clock in the morning.