

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 Sixteenth Legislature

OF THE

State Of Maine

VOLUME III

FIRST REGULAR SESSION

Senate

December 2, 1992 to May 18, 1993

STATE OF MAINE
ONE HUNDRED AND SIXTEENTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Friday
January 8, 1993

Senate called to Order by the President.

Prayer by the Honorable David L. Carpenter of York.

SENATOR DAVID L. CARPENTER: Good morning. It's not what you learn, it's not what you teach. Nor things you remember, nor things you preach. It's action that counts. Let us be in the spirit of prayer. Dear Lord, during the next several months watch over us and guide us so that our actions will benefit the State of Maine and its people. Amen.

Reading of the Journal of Tuesday, January 5, 1993.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by Senator **BUSTIN** of Kennebec, the following Joint Order:

S.P. 30

ORDERED, the House concurring that when the House and Senate adjourn, they do so until Tuesday, January 12, 1993, at four o'clock in the afternoon.

Which was **READ** and **PASSED**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

Out of order and under suspension of the Rules, on motion by Senator **ESTY** of Cumberland, the following Senate Order:

ORDERED, that a message be sent to the House of Representatives proposing a Convention of both Branches in the Hall of the House at 11:30 a.m. for the purpose of extending to Governor John R. McKernan, Jr., an invitation to attend the Convention and make such communication as pleases him.

Which was **READ** and **PASSED**.

The President appointed the Senator from Cumberland, Senator **ESTY** to deliver the message to the House.

Subsequently, the Senator from Cumberland, Senator **ESTY** reported that he had delivered the message with which he was charged.

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Authorize Financing of Solid Waste Districts on a Per Capita or a State Valuation Basis" (Emergency)

H.P. 9 L.D. 16

Comes from the House referred to the Committee on **ENERGY & NATURAL RESOURCES** and **ORDERED PRINTED**.

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

Bill "An Act to Prohibit the Use of Jet Skis on Great Ponds"

H.P. 10 L.D. 17

Comes from the House referred to the Committee on **FISHERIES & WILDLIFE** and **ORDERED PRINTED**.

Which was referred to the Committee on **FISHERIES & WILDLIFE** and **ORDERED PRINTED**, in concurrence.

Resolve, Directing the Commissioner of Marine Resources to Mediate a Conflict between Those Fishing for Lobster with Short Trawls and Those Using Long Trawls in the Harraseeket River (Emergency)

H.P. 6 L.D. 13

Bill "An Act to Retain the Current Standard for the Release of Tributyltin in Marine Antifouling Paints" (Emergency)

H.P. 7 L.D. 14

Come from the House referred to the Committee on **MARINE RESOURCES** and **ORDERED PRINTED**.

Which were referred to the Committee on **MARINE RESOURCES** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Exempt Emergency Food Banks from State Sales Tax"

H.P. 5 L.D. 12

Comes from the House referred to the Committee on **TAXATION** and **ORDERED PRINTED**.

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

Bill "An Act to Increase the Debt Limit of the South Berwick Sewer District" (Emergency)

H.P. 8 L.D. 15

Comes from the House referred to the Committee on **UTILITIES** and **ORDERED PRINTED**.

Which was referred to the Committee on **UTILITIES** and **ORDERED PRINTED**, in concurrence.

COMMUNICATIONS

The Following Communication: S.P. 27

116TH MAINE LEGISLATURE

January 6, 1993

Chairs
Joint Standing Committee on Judiciary
116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Nancy Mills of Cornville and Peter Murray of Portland for appointments as Justices of the Maine Superior Court.

Pursuant to the Constitution, Article V, Part 1, Section 8, these nominations will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,
S/Dennis L. Dutremble
President of the Senate

S/John L. Martin
Speaker of the House

Which was **READ** and **REFERRED** to the Committee on **JUDICIARY**.

Sent down for concurrence.

The Following Communication: S.P. 28

116TH MAINE LEGISLATURE

January 6, 1993

Chairs
Joint Standing Committee on Judiciary
116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Howard H. Dana, Jr. of Cape Elizabeth for appointment as a Justice of the Maine Supreme Judicial Court.

Pursuant to the Constitution, Article V, Part 1, Section 8, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,
S/Dennis L. Dutremble
President of the Senate

S/John L. Martin
Speaker of the House

Which was **READ** and **REFERRED** to the Committee on **JUDICIARY**.

Sent down for concurrence.

The Following Communication: H.P. 11

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002**

December 3, 1992

Hon. Joseph W. Mayo
Clerk of the House
State House Station #2
Augusta, Maine 04333

Dear Clerk Mayo:

This is to notify you that pursuant to my authority under Article IV, Part Third, Section 1-A, of the Constitution of the State of Maine, I am today appointing the following House members from the

majority party to serve on the Reapportionment Commission:

Rep. Paul F. Jacques, of Waterville
Rep. Michael H. Michaud, of East Millinocket
Rep. Sharon Anglin Treat, of Gardiner

Sincerely,

S/John L. Martin
Speaker of the House

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

The Following Communication: H.P. 12

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
HOUSE MINORITY OFFICE
AUGUSTA, MAINE 04333-0002**

December 3, 1992

Hon. Joseph Mayo
Clerk of the House
State House Station #2
Augusta, Maine 04333

Dear Clerk Mayo:

Pursuant to my authority under Article IV, Part Three, Section 1-A of the Maine Constitution, I am today appointing Rep. Ronald Bailey of Farmington, Rep. Joan Pendexter of Scarborough and Rep. Mary Small of Bath to serve on the 1993 Redistricting Commission.

Sincerely,

S/Walter E. Whitcomb
House Minority Leader

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

The Following Communication: H.P. 13

**THE MAINE REPUBLICAN PARTY
3 WADE STREET
PO BOX 0
AUGUSTA, MAINE 04332**

December 2, 1992

The Honorable John L. Martin
Speaker of the House
State House Station 2
Augusta, Maine 04333

Dear Mr. Speaker:

In accordance with the Constitution of Maine (Article IV, part three, section 1-A), I am pleased to designate Kenneth M. Cole III of Portland as the representative of the chairman of the Maine Republican Party to the reapportionment commission.

Please notify Mr. Cole directly about commission meetings. He may be contacted as follows:

Kenneth M. Cole III
Jensen Baird Gardner & Henry
P. O. Box 4510
Portland, ME 04112

Tel. 775-7271
Fax 775-7935

Thank you for your consideration of this appointment, and congratulations on your reelection as Speaker.

Sincerely,

S/Edward S. O'Meara, Jr.
Chairman

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

The Following Communication: H.P. 14

**THE MAINE SENATE
116TH LEGISLATURE**

December 14, 1992

The Honorable Joseph W. Mayo
Clerk of the House
State House Station 2
Augusta, ME 04333

Dear Clerk Mayo:

This is to notify you that Joseph Garland of Bangor has been selected by the Republican members of the Apportionment Committee to serve as Public Member for the 1993 Apportionment Committee.

Sincerely,

S/Dana C. Hanley
Chairman
Republican Delegation

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

The Following Communication: H.P. 15

UNIVERSITY OF MAINE
MARGARET CHASE SMITH CENTER
FOR PUBLIC POLICY
15 COBURN HALL
ORONO, ME 04469-0114

December 9, 1992

The Honorable John L. Martin
Speaker of the House
State House Station #2
Augusta, ME 04333

Dear Speaker Martin:

In accordance with 1967 Public Law, Chapter 493, I am pleased to enclose copies of the report for the 1992 Maine State Government Internship Program.

Again, due to budget limitations, we are distributing this report only to Legislative Leadership. A few additional copies are available should you need them.

The 1992 Internship Program placed thirty-two Maine College Students in four State Agencies for a 12-week paid work experience. Evaluations from both Interns and Supervisors again affirmed the value of this experience for both students and State Government.

We are pleased to be associated with the Program and would be happy to answer any questions you might have.

Sincerely,

S/Steven Ballard
Director

Which was **READ** and with Accompanying Papers
ORDERED PLACED ON FILE, in concurrence.

The Following Communication: H.P. 16

**DEPARTMENT OF CONSERVATION
STATE HOUSE STATION 22
AUGUSTA, MAINE 04333**

December 10, 1992

The Honorable John L. Martin
Speaker of the House
Maine House of Representatives
State House Station #2
Augusta, Maine 04333

The Honorable Dennis L. Dutremble
President of the Maine Senate
State House Station #3
Augusta, Maine 04333

Senate Chair
Joint Standing Committee on
Energy and Natural Resources
State House Station #3
Augusta, Maine 04333

House Chair
Joint Standing Committee on
Energy and Natural Resources
State House Station #2
Augusta, Maine 04333

Re: Reestablishment of the Commission's Jurisdiction
in Brighton Plantation

Dear Speaker Martin, President Dutremble, Senate
Chair and House Chair:

Please find enclosed a copy of a rule, entitled "Chapter 17; Reestablishment of Commission Jurisdiction" which was adopted on July 30, 1992 by the Maine Land Use Regulation Commission. The effect of this rule is to reestablish the jurisdiction of the Maine Land Use Regulation Commission in Brighton Plantation, a plantation which is not a municipality and has no local land use program.

By way of background, Brighton Plantation, located in Somerset County, assumed local land use control in 1990 after approval of a local Comprehensive Land Use Plan and Zoning Ordinance by the Maine Land Use Regulation Commission and Town voters, in accordance with land use regulation law, 12 MRSA, section 685-A(4). In March of 1992, the Plantation abolished its Planning Board and voted to return to the jurisdiction of the Commission. It reaffirmed its earlier decision in May of 1992.

In addition, 12 MRSA, section 685-A(4) provides that the Commission reestablish its jurisdiction in a community that was at one time within the Commission's jurisdiction, but which abolishes its administrative bodies and no longer administers its comprehensive land use plan and related land use ordinances.

This rule reestablishes Commission jurisdiction in Brighton Plantation, as provided by 12 MRSA, section 685-A(4). Because Brighton Plantation has abolished its Planning Board, development and other land use permits could not be issued by the Plantation nor could other land use functions be performed. Reestablishment of Commission jurisdiction within Brighton Plantation will provide for continued land use planning, development permit review and land use enforcement for the Plantation.

The reestablishment of Commission jurisdiction in Brighton Plantation meets the legislative purposes of applying sound planning, zoning and subdivision control to the unorganized and deorganized townships of the State; to preserve public health, safety and general welfare; to prevent inappropriate residential, recreational, commercial and industrial uses detrimental to the proper use or value of these areas; to prevent the intermixing of incompatible industrial, commercial, residential and recreational activities; to provide for appropriate residential, recreational, commercial and industrial uses; to prevent the development in these areas of substandard structures or structures located unduly proximate to waters or roads; to prevent the despoliation, pollution and inappropriate use of the water in these areas; and to preserve ecological and natural values.

12 M.R.S.A., section 685-A(4), specifies that action taken by the Commission to reestablish its jurisdiction over a plantation or municipality shall be effective immediately, but shall be submitted to the current or next regular session of the Legislature for approval. If the Legislature fails to act, the action shall continue in effect.

This submission is to fulfill the Commission's obligation under 12 MRSA, section 685-A(4).

If you have any questions or if I may be of assistance in your review of the rule, please do not hesitate to call me at 287-2631.

Sincerely,

S/David E. Boulter
Director
Maine Land Use
Regulation
Commission

Which was **READ** and with Accompanying Papers **ORDERED PLACED ON FILE**, in concurrence.

The Following Communication:

**STATE OF MAINE
DEPARTMENT OF AUDIT
STATE HOUSE STATION 66
AUGUSTA, MAINE 04333**

January 5, 1993

Senator Dennis L. Dutremble
President of the Senate
State House Station No. 3
Augusta, Maine 04333

Dear President Dutremble:

I submit herewith the Eighty-Fourth Annual Report of the State Auditor as required by Title 5, Section 244 of the Maine Revised Statutes.

I would like to express my special appreciation to the managers and staff of the Department of Audit for their continued support of quality audits and to the officials and employees of the various state departments, courts, counties and municipalities for their cooperation with this department.

Respectfully submitted,

S/Rodney L. Scribner, CPA
State Auditor

Which was **READ** and with Accompanying Papers **ORDERED PLACED ON FILE**.

The Following Communication:

**STATE OF MAINE
EXECUTIVE DEPARTMENT
STATE PLANNING OFFICE
STATE HOUSE STATION 38
AUGUSTA, MAINE 04333**

December 1992

Senate President Dennis Dutremble
Speaker of the House John L. Martin and
Members of the 116th Maine Legislature

Dear President Dutremble, Speaker Martin, and Members of the Legislature:

I am pleased to submit herewith the 1992 Governor's Report to the Legislature on Maine's use of Exxon, Stripper Well, and Diamond Shamrock Petroleum Violation Escrow (PVE) funds, otherwise known as "oil overcharge" funds.

This report is submitted to the Legislature pursuant to section 6 of Chapter 818 of Public Laws of 1986, Section 5 of Chapter 533 of the Public Laws of 1989. It is based on information provided by the State agencies responsible for the conduct of programs and activities funded with PVE monies. The report contains information on the status of each program or activity and the amounts of all unexpended balances.

Copies of the Report are being distributed to each member of the Legislature, agencies responsible for PVE-funded programs, and other interested parties.

Sincerely,

S/Stephen J. Adams
Acting Director

Which was **READ** and with Accompanying Papers **ORDERED PLACED ON FILE**.

The Following Communication:

**STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
STATE HOUSE STATION 6
AUGUSTA, MAINE 04333**

January 7, 1993

Honorable Dennis L. Dutremble
President of the Senate
State House Station 3
Augusta, Maine 04333

Honorable John L. Martin
Speaker of the House
State House Station 2
Augusta, Maine 04333

RE Petroleum Market Share Act/Report to the Legislature

Senate at Ease

Senate called to order by the President.

Dear Speaker Martin and President Dutremble:

Pursuant to 10 M.R.S.A. §1677, I am attaching the Petroleum Advisory Committee's Report to the Legislature regarding the Petroleum Market Share Act. Should you have questions, please feel free to contact me at 626-8855. Thank you.

Sincerely,

S/Karen E.S. Pushard
Secretary

Which was **READ** and with Accompanying Papers **ORDERED PLACED ON FILE.**

At this point, a message was received from the House of Representatives, borne by Representative GWADOSKY of Fairfield informing the Senate that the House concurred in the proposition for a Joint Convention, to be held in the Hall of the House at 11:30 a.m., for the purpose of extending to the Honorable John R. McKernan, Jr., an invitation to attend the Joint Convention and make such communication as pleases him.

Senate at Ease

Senate called to order by the President.

SENATE PAPERS

Bill "An Act to Clarify Insurance Eligibility" (Emergency)

S.P. 29 L.D. 25

Presented by Senator **CONLEY** of Cumberland

Committee on **BANKING & INSURANCE** suggested and **ORDERED PRINTED.**

Which was referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED.**

Sent down for concurrence.

At this point, the Senate retired to the Hall of the House, where a Joint Convention was formed.

AFTER CONVENTION

IN SENATE

Senate called to order by the President

Bill "An Act Regarding the Holding of Juveniles in the Androscoggin County Jail" (Emergency)

S.P. 26 L.D. 19

Presented by Senator **HANDY** of Androscoggin
Cosponsored by Senator **CLEVELAND** of Androscoggin, Senator **BERUBE** of Androscoggin and Representative ST. ONGE of Greene

Joint Select Committee on **CORRECTIONS** suggested and **ORDERED PRINTED.**

Which was referred to the Joint Select Committee on **CORRECTIONS** and **ORDERED PRINTED.**

Sent down for concurrence.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Cianchette.

Senator **CIANCHETTE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I thought that there was going to be a resolution for us to consider at this time and I don't see it on the desks. Could I ask for a brief recess to find out where it is?

Senate at Ease

Senate called to order by the President.

Senator **CIANCHETTE** of Somerset was granted unanimous consent to address the Senate on the Record.

Senator **CIANCHETTE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. It has come to our attention that the Superintendent of Insurance has set the rates of the Maine Mutual Insurance Company that significantly increases the cost of Workers' Compensation to the members who will be signing up for insurance with this company. It looks like about 35% over the cost of last year. I think

Off Record Remarks

it should be a concern of this Senate that this is not in keeping with the intent of forming this company and it would seem to me that there must be a method that we can restructure these rate schedules so that we do not place this immediate burden on these folks, many of whom, your constituents and mine, have been living through this recession and are right on the brink of whether they are going to make it or not. To impose another 35% of their Workers' Compensation insurance on them, in my opinion, will break some of those companies and there will be more people out of work in the State of Maine. The burden is going to be too great. I think it's incumbent upon this Senate and this Legislature to deal with this problem and make sure that we do not put this extra imposition on these companies and create more unemployment in the State of Maine. With that I would hope that the Senate and the Legislature would take some immediate action, with the understanding of trying to find some perhaps emergency legislation, if necessary, to deal with this problem and not allow this burden to be put on the backs of these people who, I think, many absolutely cannot afford it. Thank you.

Senator **ESTY** of Cumberland was granted unanimous consent to address the Senate on the Record.

Senator **ESTY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I heartily concur, as all of the members of leadership on both sides of the aisle do, with the statements expressed by the good Senator from Somerset county, Senator Cianchette. He, in fact, attended part of last evenings Legislative Council meeting in which we deliberated regarding this issue extensively. We discussed the kind of immediate action we as a Legislative Council could take. President Dutremble has potential legislation ready if need be to provide a vehicle to address this issue and, most importantly, Monday afternoon the Legislative Council will be meeting with the Mutual Fund board to discuss the intentions of this Legislature in keeping Workers' Compensation rates down and discuss remedies regarding this rate increase. We are all concerned, as Legislative Council members, with the rate increase and how dramatic it was and we'll be addressing that or finding out how we can address that on Monday afternoon. It's an urgent priority for us because of the comments Senator Cianchette made of course. Thank you.

The **ADJOURNMENT ORDER** having been returned from the House **READ** and **PASSED**, in concurrence, on motion by Senator **MCCORMICK** of Kennebec, **ADJOURNED** until Tuesday, January 12, 1993, at 4:00 in the afternoon.