

MAINE STATE LEGISLATURE

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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
Thursday
January 21, 1993

Senate called to Order by the President, Dennis L. Dutremble of York.

Prayer by the Honorable Margaret G. Ludwig of Aroostook.

SENATOR MARGARET G. LUDWIG: Let us be in a spirit of prayer. Dear Lord help us to follow the advice of the prophet Micah when he said, "and what doth the Lord require of thee but to do justly and to love mercifully and to walk humbly with thy God". Amen.

Reading of the Journal of Tuesday, January 19, 1993.

Senate at Ease

Senate called to order by the President.

Off Record Remarks

PAPERS FROM THE HOUSE

House Papers

Resolve, Directing the Bureau of Banking and the Bureau of Consumer Credit Protection to Develop Additional Consumer Credit Protections

H.P. 46 L.D. 62

Bill "An Act to Preserve the Public Advocate's Participation in Residual Market Deficit Proceedings at the Bureau of Insurance" (Emergency)

H.P. 50 L.D. 66

Come from the House referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED**.

Which were referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Amend the Public Works Contractors' Surety Bond Law of 1971"

H.P. 51 L.D. 67

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

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

Bill "An Act to Require the Department of Corrections to Provide Certain Services to Juveniles"

H.P. 42 L.D. 58

Bill "An Act to Change the Manner in Which Debt Service on Jail Facility Bonds Is Repaid to Counties"

H.P. 43 L.D. 59

Come from the House referred to the Joint Select Committee on **CORRECTIONS** and **ORDERED PRINTED**.

Which were referred to the Joint Select Committee on **CORRECTIONS** and **ORDERED PRINTED**, in concurrence.

Resolve, Concerning Long-term Protection from Low-level Radioactive Waste

H.P. 49 L.D. 65

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 Establish Consecutive Sentencing and Mandatory Minimum Sentences for Certain Persons Convicted of Gross Sexual Assault"

H.P. 48 L.D. 64

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

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

Presented by Senator **HANLEY** of Oxford
Cosponsored by Senator **LUTHER** of Oxford,
Senator **WEBSTER** of Franklin and Representative
BARTH of Bethel

Bill "An Act to Extend to Land Surveyors the
Limitation of Actions That Applies to Design
Professionals"

H.P. 44 L.D. 60

Which was referred to the Committee on
APPROPRIATIONS & FINANCIAL AFFAIRS and **ORDERED
PRINTED**.

Sent down for concurrence.

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

On motion by Senator **ESTY** of Cumberland, Tabled
1 Legislative Day, pending **REFERENCE**.

Bill "An Act Concerning Medically Necessary
Mastectomy Surgery"

S.P. 57 L.D. 78

Presented by Senator **FOSTER** of Hancock

Senate at Ease

Senate called to order by the President.

Bill "An Act to Amend the Laws Related to Pawn
Transactions"

S.P. 65 L.D. 127

Presented by Senator **BRANNIGAN** of Cumberland

Bill "An Act to Establish a Consistent Expiration
Date for Shellfish Licenses and Marine Worm Digger's
Licenses"

H.P. 45 L.D. 61

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

Sent down for concurrence.

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

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

Bill "An Act to Establish Hours of Education for
the Practice of Public Accountancy"

S.P. 52 L.D. 73

Presented by Senator **CAHILL** of Sagadahoc
Cosponsored by Representative **DORE** of Auburn and
Representative **STEVENS** of Sabattus

Bill "An Act Regarding the Issuance of Special
License Plates"

H.P. 47 L.D. 63

Bill "An Act to Prohibit the Board of Land
Surveyors from Enacting Continuing Education Rules"

S.P. 63 L.D. 125

Presented by Senator **VOSE** of Washington
Cosponsored by Senator **FOSTER** of Hancock and
Representative **FARREN** of Cherryfield

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

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

Which were referred to the Committee on **BUSINESS
LEGISLATION** and **ORDERED PRINTED**.

Sent down for concurrence.

SENATE PAPERS

Bill "An Act to Supplement and Maintain a Federal
Grant to the Western Regional Council on Alcoholism,
Incorporated"

S.P. 64 L.D. 126

Bill "An Act Concerning Incarceration of Sex
Offenders"

S.P. 55 L.D. 76

Presented by Senator **BUSTIN** of Kennebec
Cosponsored by Representative **OLIVER** of Portland,
Representative **GEAN** of Alfred and Representative
LARRIVEE of Gorham

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

Sent down for concurrence.

Bill "An Act Authorizing School Unions to Act as Fiscal Agents for Regional Cooperative Programs"
S.P. 54 L.D. 75

Presented by Senator **BEGLEY** of Lincoln
Cosponsored by Representative **SPEAR** of Nobleboro
and Representative **KILKELLY** of Wiscasset

Bill "An Act to Provide Funds for School Lunches"
S.P. 56 L.D. 77

Presented by Senator **BERUBE** of Androscoggin
Cosponsored by Representative **NORTON** of Winthrop
and Representative **CLARK** of Millinocket

Which were referred to the Committee on **EDUCATION** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Amend the Filing Requirements to Perfect a Security Interest in Consumer Goods"
S.P. 53 L.D. 74

Presented by Senator **BRANNIGAN** of Cumberland

Bill "An Act to Improve Enforcement of Small Claims Actions"
S.P. 62 L.D. 124

Presented by Senator **CAREY** of Kennebec

Which were referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Permit the Saco River Corridor Commission to Adopt Ordinances Governing Alcohol Use within the Corridor" (Emergency)
S.P. 59 L.D. 80

Presented by Senator **HANLEY** of Oxford
Cosponsored by Representative **TRUE** of Fryeburg
and Senator **SUMMERS** of Cumberland

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

Sent down for concurrence.

Bill "An Act to Establish Certain Voting Rights for Landowners"
S.P. 51 L.D. 72

Presented by Senator **SUMMERS** of Cumberland

Bill "An Act to Preserve Maine's Part-time Citizen Legislature by Making the Legislative Process More Efficient and Less Costly to Maine Taxpayers"
S.P. 58 L.D. 79

Presented by Senator **HANLEY** of Oxford
Cosponsored by Representative **BENNETT** of Norway
and Representative **AULT** of Wayne

Bill "An Act to Reduce the Number of Full-time Legislative Staff Employees"
S.P. 60 L.D. 81

Presented by Senator **HANLEY** of Oxford
Cosponsored by Representative **BENNETT** of Norway
and Senator **SUMMERS** of Cumberland

Which were referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**.

Sent down for concurrence.

ORDERS

Joint Orders

On motion by Senator **BUSTIN** of Kennebec the following Joint Order:

S.P. 61

ORDERED, the House concurring, that Joint Rule 13-B be amended to read:

13-B. Joint Select Committee on Rules. There shall be a Joint Select Committee on Rules. The 10 House members shall be appointed by the Speaker of the House. The 5 Senate members shall be appointed by the President of the Senate. The first-named House member shall be the House Chair. The first-named Senate member shall be the Senate Chair. The committee shall make recommendations to the House and the Senate. The committee shall, in addition to other changes, determine changes necessary to incorporate gender-neutral language in the rules.

The Joint Select Committee on Rules may only report those recommendations adopted by majority vote. Minority reports are not authorized.

Notwithstanding Joint Rule 9, majority reports of the committee that propose amendments to the rules may be adopted by a majority vote in each House, until and including the end of the session on January 28, 1993.

Which was **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator **BUSTIN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I just wanted to call attention to the members of the Senate that this is merely changing the date of January 25th, when the Joint Rules Committee was supposed to report to you, to January 28th. It would give us time to get the Bill printed and get the caucusing done on what we've done. We have not finished. We would have been finished by the 25th and we had members absent who were in Washington and are just coming back tomorrow to help us finish that. Also, Senator Esty, will present an order that will do the same thing for the Senate Rules. Thank you.

Which was **PASSED.**

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Today Assigned Matter:

Bill "An Act Providing for the Election of Commissioners of the Public Utilities Commission" S.P. 45 L.D. 57

Tabled - January 19, 1993, by Senator **ESTY** of Cumberland.

Pending - **REFERENCE**

(Committee on **STATE & LOCAL GOVERNMENT** suggested and **ORDERED PRINTED.**)

(In Senate, January 19, 1993, **READ.**)

Which was referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED.**

Sent down for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

ORDERS

Senate Order

On motion by Senator **ESTY** of Cumberland the following Senate Order:

Ordered, that Senate Rule 33 be amended to read:

33. No rule shall be dispensed with, except by the consent of two thirds of the members present. Notwithstanding this rule, after the convening of the First Regular Session and before the end of the session on January 28, 1993, any amendment to the Senate Rules proposed by a Senate Order may be adopted by a majority vote of the members present, except that if the amendment has already failed to be adopted during that session, it may be adopted only if, upon reconsideration, it receives the approval of 2/3 of the members present.

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

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

Off Record Remarks

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

Senator **CAHILL** of Sagadahoc was granted unanimous consent to address the Senate off the Record.

Senator **BUSTIN** of Kennebec was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator **PARADIS** of Aroostook was granted unanimous consent to address the Senate on the Record.

Senator **PARADIS:** We legislatively have looked at this issue quite a bit and that's why I want to more or less sound the alarm of concern. We're seeing again, as the winter months are arriving, a great disparity between the costs of gasoline in the southern areas, central areas, and northern areas, and we will be starting to look at it again. We had

an Attorney General's investigation the last time it came up for the north but it just seems to be repetitive around this time when the people most need it and everything gets very expensive and it gets cold that the cost is way up there. I just want to go on the record as saying that we want to start keeping an eye on this. Thank you.

Off Record Remarks

On motion by Senator **PEARSON** of Penobscot, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

SENATE PAPERS

Bill "An Act to Amend the Defense Finance and Accounting Service Financial Assistance Laws"
S.P. 68 L.D. 129

Presented by Senator **SUMMERS** of Cumberland (GOVERNOR'S BILL)
Cosponsored by Senator **BALDACCI** of Penobscot, Representative **MURPHY** of Berwick and Representative **DORE** of Auburn

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

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

Off Record Remarks

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Papers

Resolve, Instructing the Commissioner of the Department of Defense and Veterans' Services to Transfer a Surplus Facility to the Town of Rumford
H.P. 60 L.D. 90

Bill "An Act to Amend the Retirement Laws"
H.P. 61 L.D. 91

Come from the House referred to the Committee on **AGING, RETIREMENT & VETERANS** and **ORDERED PRINTED**.

Which were referred to the Committee on **AGING, RETIREMENT & VETERANS** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Impose a Fine on Owners of Dogs That Disturb the Peace"
H.P. 64 L.D. 94

Bill "An Act to Create a Program to Promote the Purchase of State-grown Produce by Needy Persons" (Emergency)
H.P. 83 L.D. 113

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

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

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Papers

Bill "An Act Regarding the Labeling of Returnable Containers"
H.P. 67 L.D. 97

Bill "An Act to Amend the Lemon Law"
H.P. 84 L.D. 114

Bill "An Act to Provide an Inactive License for Barbers and Cosmetologists"
H.P. 87 L.D. 117

Come from the House referred to the Committee on **BUSINESS LEGISLATION** and **ORDERED PRINTED**.

Which were referred to the Committee on **BUSINESS LEGISLATION** and **ORDERED PRINTED**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Papers

Bill "An Act Providing Access to Library Books for Persons Sentenced to Maine Correctional Institutions"

H.P. 52 L.D. 82

Comes from the House referred to the Joint Select Committee on **CORRECTIONS** and **ORDERED PRINTED**.

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

Bill "An Act Concerning Employees of the Maine Technical College System"

H.P. 78 L.D. 108

Bill "An Act to Amend the Role of the State Board of Education"

H.P. 82 L.D. 112

Bill "An Act to Preserve Existing Elementary Guidance Services in Public Schools"

H.P. 88 L.D. 118

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

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

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Require Outhouses to Be Removed from Shoreland Zones"

H.P. 63 L.D. 93

Bill "An Act Prohibiting Licensed Septic Disposal Facilities on Leased Land"

H.P. 65 L.D. 95

Bill "An Act to Classify the Medomak River"

H.P. 70 L.D. 100

Bill "An Act to Amend the Energy Policy of the State"

H.P. 72 L.D. 102

Bill "An Act to Utilize Local Enforcement Mechanisms for Land Use Violations"

H.P. 73 L.D. 103

Bill "An Act to Extend the Deadline for Municipal Adoption of Mandatory Shoreland Zoning Ordinances"

H.P. 75 L.D. 105

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

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

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Amend the Laws Limiting the Number and Size of Fish Taken"

H.P. 71 L.D. 101

Bill "An Act to Improve Safety for Snowmobile and ATV Operators"

H.P. 79 L.D. 109

Bill "An Act to Amend the Archery Hunting Requirements"

H.P. 93 L.D. 123

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

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

Bill "An Act to Establish Parity in Medicaid Reimbursement Among Licensed Master Social Workers, Licensed Social Workers, Licensed Clinical Professional Counselors and Licensed Professional Counselors"

H.P. 89 L.D. 119

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

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

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Clarify the Standard for Punitive Damages in Negligence Cases"
H.P. 59 L.D. 89

Bill "An Act to Modify the Law Concerning Public Indecency"
H.P. 68 L.D. 98

Bill "An Act to Provide for Adequate Bail Conditions for High-risk Offenders"
H.P. 76 L.D. 106

Bill "An Act to Amend the Maine Health Security Act"
H.P. 86 L.D. 116

Bill "An Act to Cover Employees of the Maine National Guard under the Maine Human Rights Act and the Whistleblowers' Protection Act"
H.P. 90 L.D. 120

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

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

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Encourage Municipal and County Officials to Be in Contract Negotiations"
H.P. 56 L.D. 86

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

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

Bill "An Act to Prohibit the Chief of the State Police from Participating in Political Advertising"
H.P. 55 L.D. 85

Resolve, to Direct the State to Compensate Property Owners and Business Owners on Sebago Lake for Damages Incurred as a Result of Low Water Levels
H.P. 85 L.D. 115

Come from the House referred to the Committee on **LEGAL AFFAIRS** and **ORDERED PRINTED**.

Which were referred to the Committee on **LEGAL AFFAIRS** and **ORDERED PRINTED**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Abolish the Lobster Promotion Board and Repeal the Fees Supporting its Operations"
H.P. 54 L.D. 84

Bill "An Act Concerning Lobster Licensing"
H.P. 66 L.D. 96

Bill "An Act to Change the Legal Harvesting Size of Clams"
H.P. 80 L.D. 110

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 Expand the Membership of the National Conference of Commissioners on Uniform State Laws"
H.P. 74 L.D. 104

Bill "An Act Relating to the Somerset County Budget Process"
H.P. 81 L.D. 111

Come from the House referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**.

Which were referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**, in concurrence.

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

Out of order and under suspension of the Rules, the Senate considered the following:

On motion by Senator **MARDEN** of Kennebec, **ADJOURNED** until Monday, January 25, 1993, at 4:00 in the afternoon.

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Amend the Laws Governing Real Estate Transactions"
H.P. 69 L.D. 99

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 Amend the Laws Governing Registration of Light Trailers"
H.P. 53 L.D. 83

Bill "An Act to Amend the Laws Governing Use of Handicapped Plates"
H.P. 58 L.D. 88

Bill "An Act to Authorize Municipal Snow Removal from Certain Private Driveways for Public Purposes"
H.P. 77 L.D. 107

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

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

Bill "An Act to Provide for Water Rights to the Town of New Gloucester"
H.P. 62 L.D. 92

Bill "An Act Relating to the Protection of Public Water Supplies" (Emergency)
H.P. 91 L.D. 121

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