

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 Seventeenth Legislature
OF THE
State Of Maine

VOLUME I

FIRST REGULAR SESSION

House of Representatives
December 7, 1994 to May 23, 1995

ONE HUNDRED AND SEVENTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
2nd Legislative Day
Thursday, December 8, 1994

Calling of the House to Order by the Speaker.
Prayer by Father Gilbert Patenaude of Augusta (retired).

Reading of the Journal of yesterday.

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, have preference in the Orders of the Day.

Resolve, Directing the Department of Environmental Protection to Extend the Deadline for Licensure of the Transfer Station on Long Island (EMERGENCY) (H.P. 4) (L.D. 1) (Committee on Energy & Natural Resources suggested)

TABLED - December 7, 1994 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Reference.

On motion of Representative JACQUES of Waterville, the Bill was tabled pending reference and later today assigned.

HOUSE ORDER - Relative to Rules of the 117th Maine House of Representatives (H.O. 5).

- In House, Read on December 7, 1994.

TABLED - December 7, 1994 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Passage.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Mr. Speaker, Men and Women of the House: For members of our caucus, we have discussed the Joint Rules today which govern the conduct between the House and Senate and certain other matters. There are also House Rules which relate solely to the House and Senate Rules which relate solely to the Senate. I think it is fair to say that the House Rules have not been in contention (by a long shot) as much as the Joint Rules have been.

Just to be sure, just before we came down here we had a meeting and had four or five members in (who are members of Rules Committees) to make sure that there was really no controversy about adoption of House Rules. To my knowledge there is no such controversy. Obviously members can make up their own minds about that, but, since we did not discuss it in caucus we thought we would let you know about this.

Subsequently, the House Order was passed.

JOINT ORDER - Relative to the Joint Rules of the 117th Legislature. (H.P. 6)

- In House, Read on December 7, 1994.

TABLED - December 7, 1994 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Passage.

On motion of Representative JACQUES of Waterville, the Joint Order was tabled pending passage and later today assigned.

The following items were taken up out of order by

unanimous consent:

SENATE PAPERS

The following Joint Order: (S.P. 1)

ORDERED, the House concurring, that a sufficient number of the Legislative Record for the 117th Legislature be printed. One copy for each of the members of the Senate and the House of Representatives who so desires, the Secretary of the Senate and Clerk of the House, and the remainder to be deposited with the State Law Librarian for exchange and library use; and be it further

ORDERED, that suitable index be prepared for such Legislative Record, under the direction of the Revisor of Statutes.

Came from the Senate, read and passed.

Was read and passed in concurrence.

The following Joint Order: (S.P. 2)

ORDERED, the House concurring, that Secretary of the Senate and the Clerk of the House respectively, purchase such services, supplies and equipment as may be needed to carry on the business of the Senate and the House, respectively.

Came from the Senate, read and passed.

Was read and passed in concurrence.

The following Joint Order: (S.P. 3)

ORDERED, the House concurring, that all printing and binding authorized by the Legislature shall be under the direction of the Secretary of the Senate and Clerk of the House.

Came from the Senate, read and passed.

Was read and passed in concurrence.

The following Joint Order: (S.P. 4)

ORDERED, the House concurring, that telephone service may be provided for each member of the Senate and House, and each Representative from the Indian Tribes at the Legislature for a reasonable number of calls, of reasonable duration, as determined by the President of the Senate as to members of the Senate and the Speaker of the House as to members of the House and the Representatives from the Indian Tribes, to points within the limits of the State of Maine. The privilege granted to be a personal privilege not to be exercised by other than the members or representatives, that each member of the Senate and House, and each Representative from the Indian Tribes at the Legislature, may be provided with a credit card under the direction of the Secretary of the Senate and Clerk of the House, respectively, the cost of this service to be paid to the New England Telephone Company at regular tariff rates; and be it further

ORDERED, that the President of the Senate or Speaker of the House may, upon a finding of abuse of the privilege of telephone service by a member of the Senate or a member of the House, respectively, temporarily suspend or terminate the privilege of said telephone service to that number.

Came from the Senate, read and passed.

Was read and passed in concurrence.

The following Joint Order: (S.P. 5)

ORDERED, the House concurring, that the Executive Director of the Legislative Council be authorized and

directed to prepare weekly, from expense accounts to be submitted to her by the members of the Senate and House, expense rosters showing the entitlement of each member for meals allowance and lodging reimbursement and to obtain approval thereof by the President of the Senate and the Speaker of the House, respectively, and deliver the same to the State Controller for processing and payment, in the manner and form recommended by the Joint Interim Committee of the 101st Legislature created to study and report on a method of implementing the administration of the provision of law relating to the mileage and expenses for members of the Legislature; and be it further

ORDERED, that the Executive Director of the Legislative Council be authorized and directed to provide the forms necessary for such purpose and provide suitable space in her office for the filing and safekeeping of all such expense accounts and other papers and records pertaining thereto.

Came from the Senate, read and passed.

Was read and passed in concurrence.

The following Joint Order: (S.P. 6)

ORDERED, the House concurring, that there be paid to the members of the Senate and the House as advances on account of compensation established by statute, 12 payments on a biweekly basis commencing January 4, 1995, in the amount of Eight Hundred and Thirty-one dollars and twenty-five cents (\$831.25), according to lists certified to the State Controller by the President of the Senate and Speaker of the House, respectively.

Came from the Senate, read and passed.

Was read and passed in concurrence.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

On motion of Representative GWADOSKY of Fairfield, the House recessed.

After Recess

The House was called to order by the Speaker.

The following items were taken up out of order by unanimous consent:

ORDERS

On motion of Representative JACQUES of Waterville, the following Joint Order (H.P. 7):

ORDERED, the Senate concurring, that the Joint Rules of the 116th Legislature shall be the Joint Rules of the 117th Legislature except that Joint Rule 13-B shall be repealed and replaced 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 be responsible to review the

charge of each standing and select committee of the 117th Legislature. The committee shall be authorized to conduct surveys and hold in-house public hearings. The committee shall report to the Legislative Council by May 15, 1995 on its recommendations. The report shall include, but not be limited to the following, number of committees, committee workloads, restructuring of committees, and improved efficiency of the committee process. Notwithstanding Joint Rule 9, the recommendations included in this report on committees may be adopted by a majority vote.

Notwithstanding Joint Rule 9, reports of the committee that propose amendments to the rules may be adopted by majority vote in each House, until and including the end of the session on the third Friday in January. No Joint Rule or Joint Order shall be altered or repealed, nor shall any new standing rule or order be adopted, unless one day's previous notice thereof be given in each case, and such notice shall be entered on the journal of each House.

Was read.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I rise today to urge you to vote against the Order. I would like to explain a few of my reasons why.

It has been an interesting exercise we have participated in today and I appreciate the opportunity for us to get to know each other perhaps on a first name basis. I would like to remind this body that we have the issue before us of whether or not we proceed with developing a system of committees in conjunction with another entity or whether we proceed on our own.

Many of you may differ with me but, I firmly believe that passing this Order is a pathway of confrontation. I think it needs to be said. The alternative is for a group of people to sit down and perhaps develop a compromise between now and the very near future, not May 15th.

I appreciate that a number of us differ on that just as a number of us differ on whether we should actually cut committees or not.

Whether we like it or not this is a prescription for no change. There are many of you who don't see it that way and I appreciate that.

So, I only want to voice my objections to us passing this Order along to passing this Order.

I thirdly believe that we had another route that was a potential — it hasn't happened and I appreciate the fact that there was a lot of discussion about how this felt all right for us to do. Maybe it does. Maybe there is a fear that we look good and we don't care about the others. It is the joint efforts that count.

So, with some of these thoughts in mind I urge that you vote against the Order.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I beg to disagree with the good gentleman. I believe that we have in fact come up with a reasonable compromise. It is a compromise that was not crafted today but it is a compromise that in fact has been crafted over the last two years.

It began two years ago when there was concern about the rules and wanting to have more input from a larger group of people on the Rules wanting to have more of a process in place for change to happen. Change did happen. The rules are different than they were two years.

Not all the change that everyone wanted happened. But, much did.

This particular process would allow this legislature to look at the structure that it has inherited and determine what changes need to take place.

I can't imagine being here as a first time member of this House and being asked to accept, without any question, without any discussion, the final list of committee from anyone, whether it is from the previous legislature, whether it is from the other body, whether it is from me or anyone else. I can't imagine having to do that.

What this proposes is that this legislature will make decisions for itself, not depending on what has gone on in the past but using that information adding its own information to it, creating its own process and making change within this 117th Legislature. That is a reasonable way to do it. It is a reasonable process and May 15th is the deadline. May 15 is not the date that the Report will have to happen, it may happen earlier than that. But, it is important that we acknowledge that this is the peoples' House, the work we do is the peoples' work and we must make sure that they have an opportunity to comment on how we are going to do their work.

We also need to make sure that all of us know what each committee does, what they don't do, what they can do, what they can't do, so that when we make the decision it is in fact a decision that we are going to be able to look at and be proud of and say, "I made the decision to cut this committee because...." "I made the decision to keep this committee because...." We can't do that tonight with a short list no matter whose list it is.

I would urge you to adopt this.

Now, to the question of it being confrontational — we have a job to do as members of this House. The reason that I have chosen to be a member of this House is because it is an absolute, wonderful, dynamic, innovative institution (regardless of what you may have read in the press). It is a House that needs to be doing its own work. We have to make a stand. We have to say that is what we believe is in the best interest of our constituents and at some point we will negotiate with the other end. That is what our job is — our job is to do our job for the people that brought us here, the people that sent us here to do their work.

I think this is a reasonable compromise. I think that it is something that has grown over a period of time, it is something that has not been rushed into and I urge your support.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, Men and Women of the House: I rise only to disagree with my counterpart from the other corner in a very friendly way.

We all talked about trust and your word meaning something and going along the whole line. I would like to say for the Record, in front of all of you and the people of Maine that I do not oppose cutting

down the number of committees. Then we can all go back and say we cut government and the whole ball of wax. My concerns are what committees you cut, what you replace them with, how you cut it, based on what?

I've got to tell you that we are doing this in this little room here and we all had our mandated when we got reelected or elected for the first time. We still seem to be forgetting about the people that we serve who rely on a process in the Legislature to have their say.

I would like to know, as I am sure many veterans of this state would like to know that if you decide, arbitrarily, by vote, today, tomorrow, next week, to do away with the Committee on Aging, Retirement and Veterans, where will they go? Who will be their court? Who will listen to their concerns? Are we going to stick them in Appropriations? Are we going to stick them in Energy and Natural Resources? Are we going to stick them in Taxation? The state employees, specifically the retirees, who for years have been treated for second class citizens and never had a place to go and finally had a committee whose interest, whose expertise, whose service was to listen to their concerns and their issues and have some area of expertise to deal with them, where are you going to send them? It goes on and on and on.

You heard Representative Look talk about (in caucus) the Marine Resources Committee, the people, the constituency, mine and your people whose livelihood are going to be affected and impacted based on whether or not they have somewhere to go; and the system that we put in place; and allow them to come here and testify in their only court of last resort. The peoples' body is the Maine Legislature. I don't know if 19 committees is too much or too little. I don't know if 15 are or 14 are. But, I do have enough trust in the people that we have elected in this body that if you set a committee up of people who are honest and straight forward, (as we all are), who are dedicated to doing their job, (as we all are), that they will go through that process and they will come back and make recommendations to us which I fully intend to support and vote for.

Just so you will understand — if the majority of this committee comes back with recommendations that are thought out, that make sense, that they did to service to the people, they should have and we should have — I fully intend (unless there is something really really major wrong) to support that. If that is 14 committees — and understand what I am saying, if that is 14 committees and people have made their recommendations, so be it. But, there is a process that we should go through.

I do not think that voting for this Order to the end of the process of change. It just isn't going to happen. There are 71 of you that ran on change. There are 71 of you that got elected on change. That is almost half this body. I know all the members of leadership are committed to helping you institute those changes. There is another 5. 71 and 5 is 76, that is pretty close to what you need isn't it? To get something passed by a simple majority.

I can only make my pledge to you as one member of leadership but people talked about extending their hand. They talked about trust. They talked about being treated fairly. They talked about being equals in the mission we are here for. I believe this enables that to happen. I believe that this sets up a recipe to do all the things that you said you want to do but let's do it right out front, right up

front, with public input and participation, not alienate any particular group because they happen to fall victim to the popular trend of just saying that less government is better government.

Let's show them that less government can be better government by getting them involved, finding out the facts and showing them that indeed they still will have a constituency, they will still have a place to go and their interests will still be taken care of and considered by the Maine Legislature.

We are not talking about nickel and dime operations here, we are talking about peoples livelihood and we are talking about multi-million dollars worth of income to this states economy. We shouldn't be making light of it. We shouldn't be saying that this is something that we can do and then work out the details later. They expect us to have the details now. They expect us to have the facts and figures before we take these actions. We can do that. Yes, yes, it is going to have to take some trust. But, I have seen my share of rhetoric — I really have. It is time, if we really really say what we want to do what we want to do to put your cards on the table, not face down but face up and see if indeed the trust that we are all talking about having is there.

What happened in the past we have all said we don't care about, we are looking toward the future, we are looking ahead. I only have to look ahead for the next two years. Some of you, hopefully, will be looking ahead to six years and eight years of service in this body. But, we all have to look ahead, not behind. The injustices of the past are not dealt with by just turning around who did the injustices to who. I heard an awful lot of that in the last two days. I don't believe that is not the message that the people sent us. I don't believe that a majority of the members of this body want to go in that direction. So, yes, let's start from today, right now, forward — lay the cards down face up and see if we really do have the trust that these committees and this special committee, these actions will be done based on fairness, equity and involvement versus picking an arbitrary figure out of the air to say yes, we did cut something in the Maine Legislature, we cut the number of committees.

Now, I understand that suspicion and suspect of things not changing and things going on the way they are are still prevalent in some areas in this body. The fact of the matter is if you can't get over that, you can't get over anything else. We shouldn't be telling people that a new era has dawned on this Legislature of bipartisan corporation and dedication to the people we work with if we don't at least take that first step to trust each other, that we will live by our word, we will stand by what we say and indeed want to do the things that the people have asked us to do.

I told my caucus when I was reelected floor leader there is no question in my mind that the people of Maine want a leaner government. But, I know (and so do you) that they do not want a meaner government.

I believe we can do the things you want to accomplish but I think we can do it in a much better fashion than by just picking a number and running with it. Let's go through the process, open it up to the light of day, get people in here, let them have their say and make your decisions and recommendations. That is what a democracy is all about, not picking numbers out of the air to make

someone feel good. It is just not fair. It just isn't going to serve the purpose. It is not going to accomplish what you want to accomplish.

You talked about trust, you talked about understanding, you talked about corporation, working together, let it start here, let it start here, let it start today, let it start now. If not today, when? If not now, when? It is up to you.

Mr. Speaker, I request the yeas and nays.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than 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 and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Donnelly.

Representative DONNELLY: Mr. Speaker, Men and Women of the House: I want to share a little irony with you today, that I was sitting here thinking of. I do trust you, Representative Jacques, and that is not part of the irony. I do trust the members of this House and I have spoken highly of everyone I have served with because I think we all come here with the best of intentions and ideas of what we think the State of Maine needs and deserves and what it needs to move forward.

The irony I want to share with you is that we are going to increase the number of committees to cut the number of committees. I don't know, maybe it is just me, but it seems a little bit silly to do that. We can do it in a logical process. We had a Representative earlier in caucus talk about a committee they felt could be cut immediately. That sort of discussion could go on. We could talk right now — or probably this morning would have been better — but, we wanted to talk about other things.

The other irony I want to bring up before I sit down, because I do want to go home, is that these are joint rules. Well, we are not allowed or supposed to consider any action or reconsideration of the other body when making our decision. This is the one time that it counts. From now on what we do we should do as a House entirely independent of what the other body does. But, I think to leave out in the cold any consideration or discussion with them is less than professional and it is confrontational.

The rules that we discussed all day, that none of us like, was tabled in the other body. The hand was extended from there to here and we are going to try to ram something down their throats.

I think we have an opportunity to negotiate, an opportunity to come up with something that is acceptable to us that will set a tone for positive change for the next two years.

Please join me in voting against this motion.

The SPEAKER: The Chair recognizes the Representative from South Berwick, Representative Farnum.

Representative FARNUM: Mr. Speaker, Men and Women of the House: I am supporting this for one reason or several reasons. It is right to the point, it allows the people of the State of Maine to have their say in it and, we have a deadline. Those three things convinced me it is a good bill.

The SPEAKER: A roll call has been ordered. The

pending question is passage of Joint Order (H.P. 7). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 1

YEA - Adams, Ahearne, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Chartrand, Chase, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Davidson, Desmond, Dexter, Dipietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Hartnett, Hatch, Heesch, Hichborn, Jacques, Johnson, Jones, K.; Keane, Kerr, Kilkelly, Kontos, Lafountain, Lemaire, Lemke, Lemont, Lindahl, Look, Madore, Martin, Mayo, McElroy, Meres, Mitchell EH, Morrison, Murphy, Nadeau, O'Gara, O'Neal, Pendleton, Pinkham, Pouliot, Povich, Reed, W.; Rice, Ricker, Rosebush, Rotondi, Rowe, Samson, Saxl, Shiah, Sirois, Spear, Thompson, Townsend, Treat, Tripp, Tuttle, Tyler, Volenik, Waterhouse, Watson, Wheeler, Winglass, Winn, Yackobitz, The Speaker.

NAY - Ault, Barth, Buck, Campbell, Carleton, Damren, Donnelly, Dunn, Gieringer, Goolley, Greenlaw, Guerrette, Jones, S.; Labrecque, Lane, Layton, Libby JL, Lovett, Lumbr, Marshall, Marvin, McAlevey, Nass, Ott, Peavey, Perkins, Plowman, Poirier, Reed, G.; Robichaud, Savage, Simoneau, Taylor, Tufts, Whitcomb, Winsor.

ABSENT - Aikman, Bailey, Birney, Cameron, Chick, Hale, Heino, Joseph, Joy, Joyce, Joyner, Kneeland, Libby JD, Luther, Mitchell JE, Nickerson, Oliver, Poulin, Richardson, Stedman, Stevens, K.; Stone, Strout, True, Truman, Underwood, Vigue.

Yes, 88; No, 36; Absent, 27; Paired, 0; Excused, 0. 88 having voted in the affirmative and 36 in the negative, with 27 being absent, Joint Order (H.P. 7) was passed and sent up for concurrence.

SENATE PAPER

Bill "An Act to Protect the Future of the United States Naval Shipyard at Kittery and the United States Naval Air Station at Brunswick" (EMERGENCY) (S.P. 7) (L.D. 2) (Governor's Bill)

Came from the Senate without reference to a Committee, the Bill was read twice and passed to be engrossed.

Was read.

The SPEAKER: The Chair recognizes the Representative from Eagle Lake, Representative Martin. Representative MARTIN: Mr. Speaker, Members of the House: First of all let me say I support the legislation.

I also want the Legislative Record to show that the other body may not suspend rules when there are no rules.

The notation on the supplement is incorrect and the bill documentation should so reflect that.

Having said that, it is also possible, since there are no rules, to enact any piece of legislation without any question and do so by majority vote, despite rules.

Subsequently, without reference to a Committee the Bill was read time twice and passed to be engrossed in concurrence. Ordered sent forthwith.

ENACTOR

Emergency Measure

An Act to Protect the Future of the United States Naval Shipyard at Kittery and the United States Naval

Air Station at Brunswick (S.P. 7) (L.D. 2) (Governor's Bill)

The Bill was reported as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 119 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

ORDERS

On motion of Representative JACQUES of Waterville, the following Joint Order (H.P. 8):

ORDERED, the Senate concurring, that when the House and Senate adjourn, they do so to the call of the President of the Senate and the Speaker of the House when there is need to conduct legislative business.

Was read and passed and sent up for concurrence.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

On motion of Representative MORRISON of Bangor, the House adjourned at 8:00 p.m., pursuant to the Joint Order (H.P. 8).