

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME VI

SECOND REGULAR SESSION

House of Representatives

January 3, 1996 to April 3, 1996

Senate

January 3, 1996 to March 13, 1996

ONE HUNDRED AND SEVENTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
22nd Legislative Day
Monday, March 11, 1996

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

Prayer by Father Gilbert Patenaude (Retired), Augusta.

National Anthem by Lewiston High School Band.

Physician for the day, Brian M. Jumper, M.D., Falmouth.

The Journal of Thursday, March 7, 1996 was read and approved.

SENATE PAPERS

The following Joint Resolution: (S.P. 718)

**JOINT RESOLUTION MEMORIALIZING
THE DEPARTMENT OF THE INTERIOR
TO SETTLE AN 11-YEAR DISPUTE BETWEEN THE
NATIONAL PARK SERVICE AND THE SKI AREA
LOCATED ON SADDLEBACK MOUNTAIN**

WE, your Memorialists, the Members of the One Hundred and Seventeenth Legislature of the State of Maine now assembled in the Second Regular Session, most respectfully present and petition the Department of the Interior as follows:

WHEREAS, there has been an 11-year dispute between the ski area located on Saddleback Mountain and the National Park Service of the Department of the Interior regarding the acquisition of a corridor to protect the portion of the Appalachian Trail that crosses Saddleback Mountain in western Maine; and

WHEREAS, the uncertainty of this dispute has prevented the ski area located on Saddleback Mountain from implementing an expansion plan that has been approved by state regulators; and

WHEREAS, this dispute and the resulting impasse threaten the existence of the more than 100 jobs provided by the ski area and prevent the creation of new jobs at the ski area; and

WHEREAS, these jobs are critical to the economy of western Maine; now, therefore, be it

RESOLVED: That We, your Memorialists, recommend and urge the Department of the Interior to reach a speedy, reasonable and fair settlement with the ski area located on Saddleback Mountain; and be it further

RESOLVED: That We further urge the Department of the Interior to accept the offer of the ski area located on Saddleback Mountain of a gift of land to serve as a corridor to forever protect the Appalachian Trail; and be it further

RESOLVED: That suitable copies of this memorial, duly authenticated by the Secretary of State, be transmitted to the Secretary of the Interior, Bruce Babbitt, and to each member of the Maine Congressional Delegation.

Came from the Senate read and adopted.

Was read.

On motion of Representative JACQUES of Waterville tabled pending adoption and later today assigned.

Non-Concurrent Matter

Joint Order (H.P. 1332) relative to the Revisor of Statutes being directed to prepare, "Joint Resolution Memorializing Congress and the Department of Energy to Make Full Use of the Rate Funds That Have Already Been Collected to Store and Monitor High-level

Nuclear Waste" and that the same be delivered to the Clerk of the House for introduction which was passed in the House on March 6, 1996.

Came from the Senate indefinitely postponed in non-concurrence.

On motion of Representative JACQUES of Waterville, tabled pending passage and later today assigned.

Non-Concurrent Matter

Bill "An Act to Amend the Definition of Outdoor Stadium in the Liquor Licensing Laws" (EMERGENCY) (H.P. 1267) (L.D. 1742) which was passed to be engrossed as amended by Committee Amendment "A" (H-726) in the House on March 5, 1996.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-726) as amended by Senate Amendment "A" (S-447) thereto in non-concurrence.

The House voted to Recede and Concur.

COMMUNICATIONS

The following Communication: (S.P. 728)

117TH MAINE LEGISLATURE

March 6, 1996

Senator S. Peter Mills

Representative Sharon Treat

Chairpersons

Joint Standing Committee on Judiciary

117th Legislature

Augusta, Maine 04333

Dear Senator Mills and Representative Treat:

Please be advised that Governor Angus S. King, Jr. has nominated Vendean Vafiades of Augusta for appointment as a member of the Maine Indian Tribal-State Commission.

Pursuant to Title 30 MRSA, Section 6212, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,

S/Jeffrey H. Butland

President of the Senate

S/Dan A. Gwadosky

Speaker of the House

Came from the Senate, read and referred to the Committee on Judiciary.

Was read and referred to the Committee on Judiciary in concurrence.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

The following Bills and Resolves were received and, upon the recommendation of the Committee on Reference of Bills, were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

Transportation

Bill "An Act Requiring Qualified Investigation of Certain Truck-related and Bus-related Fatalities" (H.P. 1341) (L.D. 1836) (Presented by Representative LEMKE of Westbrook) (Cosponsored by Representatives: BENEDIKT of Brunswick, BUCK of Yarmouth, CHIZMAR of Lisbon, KERR of Old Orchard Beach, TRIPP of Topsham) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Reported Pursuant to Public Law

Representative TREAT for the Joint Standing Committee on Judiciary pursuant to Public Law 1995, chapter 484, section 2 asks leave to submit its findings and to report that the accompanying Bill "An Act to Recodify and Revise the Maine Revised Statutes, Title 19" (H.P. 1347) (L.D. 1842) be referred to the Joint Standing Committee on Judiciary for Public Hearing and printed pursuant to Joint Rule 20.

Report was read and accepted, and the Bill referred to the Committee on Judiciary, ordered printed and sent up for concurrence.

Reported Pursuant to Public Law

Representative WHITCOMB for the State Planning Office pursuant to Public Law 1995, chapter 465, Part C asks leave to submit its findings and to report that the accompanying Bill "An Act to Remove Statutory References to the Maine Waste Management Agency" (H.P. 1343) (L.D. 1838) be referred to the Joint Standing Committee on Natural Resources for Public Hearing and printed pursuant to Joint Rule 20.

Report was read and accepted, and the Bill referred to the Committee on Natural Resources, ordered printed and sent up for concurrence.

Reported Pursuant to Resolve

Representative TRIPP for the Commission to Study the Growth of Tax-exempt Property in Maine's Towns, Cities, Counties and Regions pursuant to Resolve 1995, chapter 47 asks leave to submit its findings and to report that the accompanying Bill "An Act to Broaden the Municipal Service Charge" (H.P. 1344) (L.D. 1839) be referred to the Joint Standing Committee on Taxation for Public Hearing and printed pursuant to Joint Rule 20.

Report was read and accepted, and the Bill referred to the Committee on Taxation, ordered printed and sent up for concurrence.

Reported Pursuant to Statutes

Representative REED for the administrator of the unorganized territory pursuant to the Maine Revised Statutes, Title 36, section 1604 asks leave to submit its findings and to report that the accompanying Bill "An Act to Establish Municipal Cost Components for Unorganized Territory Services to Be Rendered in Fiscal Year 1996-97" (EMERGENCY) (H.P. 1342) (L.D. 1837) be referred to the Joint Standing Committee on Taxation for Public Hearing and printed pursuant to Joint Rule 20.

Report was read and accepted, and the Bill referred to the Committee on Taxation, ordered printed and sent up for concurrence.

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

REPORTS OF COMMITTEES

Refer to the Committee on Taxation

Representative FITZPATRICK from the Committee on Human Resources on Bill "An Act to Develop the Maine Public Health Improvement Plan" (H.P. 1253)

(L.D. 1722) reporting that it be referred to the Committee on Taxation.

Report was read and accepted and the Bill referred to the Committee on Taxation and sent up for concurrence. Ordered sent forthwith.

Ought to Pass as Amended

Representative STROUT from the Committee on Transportation on Bill "An Act to Exempt Working Rural Mail Carriers from the Seat Belt Law" (H.P. 1265) (L.D. 1740) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-747)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-747) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, March 12, 1996.

Ought to Pass as Amended

Representative TREAT from the Committee on Judiciary on Bill "An Act to Amend the Protection from Abuse and Protection from Harassment Statutes" (H.P. 1279) (L.D. 1758) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-751)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-751) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, March 12, 1996.

Ought to Pass Pursuant to Joint Order (H.P. 1290)

Representative LANE from the Committee on State and Local Government on Resolve, for Laying the County Taxes and Authorizing Expenditures of Piscataquis County for the Year 1996 (EMERGENCY) (H.P. 1345) (L.D. 1840) reporting "Ought to Pass" Pursuant to Joint Order (H.P. 1290)

Report was read and accepted. The Bill read once and assigned for second reading Tuesday, March 12, 1996.

Ought to Pass Pursuant to Joint Order (H.P. 1300)

Representative LOOK from the Committee on Marine Resources on Bill "An Act to Distribute the Assets of the Maine Sardine Council to Council Members upon Dissolution of the Council by the Legislature" (H.P. 1346) (L.D. 1841) reporting "Ought to Pass" Pursuant to Joint Order (H.P. 1300)

Report was read and accepted. The Bill read once and assigned for second reading Tuesday, March 12, 1996.

Divided Report

Majority Report of the Committee on Utilities and Energy reporting "Ought Not to Pass" on Bill "An Act to Protect Sources of Drinking Water in the Towns of Searsport, Stockton Springs and Prospect" (H.P. 1218) (L.D. 1668)

Signed:

Senators:

CARPENTER of York
HARRIMAN of Cumberland
CLEVELAND of Androscoggin
KONTOS of Windham
TAYLOR of Cumberland
GIERINGER of Portland
MARSHALL of Eliot
LUTHER of Mexico

Representatives:

CAMERON of Rumford
Minority Report of the same Committee reporting
"Ought to Pass" as amended by Committee Amendment "A"
(H-742) on same Bill.

Signed:

Representatives: O'NEAL of Limestone
HEESCHEN of Wilton

Was read.

Representative KONTOS of Windham moved that the House accept the Majority **"Ought Not to Pass"** Report.

The SPEAKER: The Chair recognizes the Representative from Ellsworth, Representative Povich.

Representative POVICH: Mr. Speaker, Men and Women of the House: I rise to support the Committee Amendment to L.D. 1668, An Act to Protect Sources of Drinking Water in the Towns of Searsport, Stockton Springs and Prospect. This amendment replaces the original bill.

Ladies and gentlemen, chances are you do not know anybody from the Town of Prospect and chances are you do not know where the Town of Prospect is located. If I told you Prospect lies directly across from the Town of Bucksport on the banks of the Penobscot River in Waldo County and I told you that Fort Knox, the formidable granite bastion named for the first U.S. Secretary of War, is situated within its town boundaries, you might attain a clearer geographic picture.

At this very moment there are 500 souls in Prospect who are very worried about their future supply of pure drinking water. They imagine that their wells will go dry if the Searsport Water District maintains its current practices. In August 1993, the Searsport Water District, under federal mandate, defined an alternative source of drinking water other than Half Moon Pond. It committed approximately 2 million dollars to drill a production well. Unfortunately, they goofed. They drilled the well in the Town of Prospect.

The Searsport Water District, under great pressure to pay off the staggering debt, created a controversy by refusing to meet with the selectmen of the Town of Prospect. The selectmen and the citizens of Prospect simply wanted to know whether the Searsport Water District planned to sell off valuable shore front property, most of which is located within the Town of Prospect, to sand down this debt. The citizens of Prospect also wanted to know whether the water district intended to dramatically enlarge their service area to gain new revenues to further sand down this massive debt. The Town of Prospect worried that increasing the service area would further compromise the aquifer and the watershed of Half Moon Pond, which feeds the production well for the Searsport Water District and the 900 ratepayers.

What this amendment to L.D. 1668 does is nothing. It does nothing for fiscal impact. It is not a mandate. It does nothing to increase rates. It also does nothing to increase the legal exposure for the Searsport Water District. What this bill does say, in its amended form, is do nothing to degrade or improve the purity of the pond. It says, "Do no harm to Half Moon Pond." The amendment to L.D. 1668 is an innocent good faith attempt to right a wrong.

Men and women of the House, the Committee Amendment to L.D. 1668 is good policy consistent with our existing commitment to protecting ground water sources throughout our great state. I urge you to vote no on the pending motion. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Stockton Springs, Representative Tufts.

Representative TUFTS: Mr. Speaker, Ladies and Gentlemen of the House: I am the Representative for the community of Prospect and appear here on their behalf. I have been contacted lately by several camp owners on Half Moon Pond regarding the potential sale of the land there owned by the Searsport Water District. They are very concerned over what use the land would be put to if it was acquired by someone else. Half Moon Pond is a beautiful little pond in North Searsport. It is known for its good fishing and its peace and tranquility and they, of course, would like to keep it that way.

I had an opportunity yesterday to speak with a district representative from Searsport and he assured me that the district had no plans to sell any of the land on Half Moon Pond. The amendment offered by the good Representative from Ellsworth would make sure that future members of the water district would not change their minds. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Taylor.

Representative TAYLOR: Mr. Speaker, Men and Women of the House: I urge you to support the Majority **"Ought Not to Pass"** vote. The proposed Minority Report lacks definition. It is written in the negative and nothing is specified. I can't conceive of any legal action that the towns or the district could take that would degrade Half Moon Pond. The sale of water to other entities should be the responsibility of the Searsport Water District. The bill is unnecessary. Please support the Majority **"Ought Not to Pass"** Report. Thank you.

The Chair ordered a division on the motion to accept the Majority **"Ought Not to Pass"** Report.

A vote of the House was taken. 76 voted in favor of the same and 38 against, subsequently, the Majority **"Ought Not to Pass"** Report was accepted and sent up for concurrence.

CONSENT CALENDAR

First Day

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

(H.P. 99) (L.D. 134) Bill "An Act to Exempt Certain Small Businesses from Paying the Annual Fee to the Public Drinking Water Fund" Committee on Human Resources reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-746)

(H.P. 1050) (L.D. 1469) Bill "An Act to Reinstate the Maine Meat Inspection Act" Committee on Agriculture, Conservation and Forestry reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-749)

(H.P. 1181) (L.D. 1620) Bill "An Act to Amend the Charter of the East Boothbay Water District" (EMERGENCY) Committee on Utilities and Energy reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-750)

(H.P. 1292) (L.D. 1774) Bill "An Act to Improve and Expand the Functions of the Department of Audit" Committee on Appropriations and Financial Affairs reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-745)

(H.P. 1299) (L.D. 1782) Bill "An Act to Create the Motor Carrier Training Advisory Board" Committee on

Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-748)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, March 12, 1996 under the listing of Second Day.

CONSENT CALENDAR Second Day

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

(S.P. 38) (L.D. 68) Bill "An Act to Increase Access to and Affordability of Mental Health and Substance Abuse Treatment Services by Providing Mandatory Reimbursement to Counseling Professionals who are Licensed to Assess and Treat Intrapersonal and Interpersonal Problems" (C. "B" S-441)

(H.P. 1306) (L.D. 1787) Bill "An Act to Place Penobscot Land in Trust"

No objections having been noted at the end of the Second Legislative Day, the Senate Paper was Passed to be Engrossed as Amended in concurrence and the House Paper was Passed to be Engrossed and sent up for concurrence.

BILLS IN THE SECOND READING As Amended

Bill "An Act to Allow Municipalities and Regions to Include Beneficial Use of Waste Originated in Their Jurisdiction As Credit in Demonstrating Recycling Progress" (H.P. 1209) (L.D. 1659) (C. "A" H-739)

Was reported by the Committee on Bills in the Second Reading, read the second time, the House Paper was Passed to be Engrossed as Amended and sent up for concurrence.

ENACTORS Emergency Measure

An Act to Repeal the Requirement that Disbursement Warrants Receive an Affirmative Vote by Municipal Officers (S.P. 608) (L.D. 1612) (C. "A" S-421; S. "A" S-444)

Was reported by the Committee on Engrossed Bills 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. 120 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Correct a Technical Error Relating to the Research Expense Tax Credit (H.P. 1212) (L.D. 1662) (C. "A" H-727)

Was reported by the Committee on Engrossed Bills 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. 104 voted in favor of the same and 3 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Provide for Record Checks of Elementary and Secondary Education Employees and Applicants (H.P. 617) (L.D. 827) (C. "A" H-724)

An Act to Allow Physicians' Offices to Receive Discounts from Pharmaceutical Manufacturers (H.P. 1169) (L.D. 1601) (C. "A" H-725)

An Act to Allow Voluntary Withholding of Federal and State Income Taxes from Unemployment Compensation Benefits (S.P. 639) (L.D. 1674) (C. "A" S-437)

An Act Pertaining to the Northern New England Passenger Rail Authority (H.P. 1228) (L.D. 1681) (S. "A" S-445)

An Act to Simplify Applications for Tax Exemptions for Blind Individuals (H.P. 1248) (L.D. 1710)

An Act to Increase the Municipal Share of Dog Licensing Fees (H.P. 1250) (L.D. 1712) (C. "A" H-729)

An Act to Amend the Commercial Vehicle Weight Laws (S.P. 674) (L.D. 1734) (C. "A" S-438)

Resolve, to Create an Advisory Committee to Assist in the Management of State Employee Workers' Compensation Costs (S.P. 379) (L.D. 1056) (H. "A" H-743 to C. "A" S-420)

Resolve, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Real Estate in the Unorganized Territory (H.P. 1219) (L.D. 1669) (C. "A" H-723)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted or finally passed, signed by the Speaker and sent to the Senate.

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

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

SENATE PAPERS

Bill "An Act to Encourage Enterprises Engaged in Agriculture and Aquaculture in Maine" (S.P. 734) (L.D. 1843) (Governor's Bill)

Came from the Senate, referred to the Committee on Agriculture, Conservation and Forestry and Ordered Printed.

Was referred to the Committee on Agriculture, Conservation and Forestry in concurrence.

Bill "An Act Authorizing County Commissioners to Enact Ordinances Concerning Addressing Standards for Enhanced 9-1-1 Services in the Unorganized Territories" (EMERGENCY) (S.P. 735) (L.D. 1844)

Came from the Senate, referred to the Committee on State and Local Government and Ordered Printed.

Was referred to the Committee on State and Local Government in concurrence.

Reported Pursuant to Public Law

Report of the Assisted Living Task Force pursuant to Public Law 1995, chapter 362 asks leave to submit its findings and to report that the accompanying Bill "An Act to Provide for Assisted Living Services" (S.P. 731) (L.D. 1835) be referred to the Joint Standing Committee on Human Resources for Public Hearing and printed pursuant to Joint Rule 20.

Came from the Senate with the Report read and accepted and the Bill referred to the Committee on Human Resources and Ordered Printed.

Report was read and accepted and the Bill referred to the Committee on **Human Resources** in concurrence.

Reported Pursuant to Public Law

Report of the Joint Standing Committee on **Natural Resources** pursuant to Public Law 1995, chapter 460, section 11 asks leave to submit its findings and to report that the accompanying Bill "An Act to Amend the Laws Relating to Regulation of Wetlands" (S.P. 730) (L.D. 1834) be referred to the Joint Standing Committee on **Natural Resources** for Public Hearing and printed pursuant to Joint Rule 20.

Came from the Senate with the Report read and accepted and the Bill referred to the Committee on **Natural Resources** and Ordered Printed.

Report was read and accepted and the Bill referred to the Committee on **Natural Resources** in concurrence.

TABLED AND TODAY ASSIGNED

The Chair laid before the House the following items which were Tabled and Today Assigned:

HOUSE DIVIDED REPORT - Majority (11) **"Ought to Pass"** as amended by Committee Amendment "A" (H-712) - Minority (2) **"Ought Not to Pass"** - Committee on **Criminal Justice** on Bill "An Act to Include Sexual Contact in the Definition of Prostitution" (H.P. 1216) (L.D. 1666)

TABLED - March 7, 1996 by Representative JACQUES of Waterville.

PENDING - Motion of Representative CLARK of Millinocket to accept the Majority **"Ought to Pass"** as amended Report.

On motion of Representative JACQUES of Waterville, tabled pending the motion of Representative CLARK of Millinocket to accept the Majority **"Ought to Pass"** as amended Report and specially assigned for Tuesday, March 12, 1996.

Resolve, Regarding Legislative Computer
Information Systems (EMERGENCY) (H.P. 1226)
(L.D. 1679)

(Committee on **State and Local Government** suggested)
TABLED - March 7, 1996 by Representative JACQUES of Waterville.

PENDING - Reference.

Subsequently, the Resolve was referred to the Committee on **State and Local Government**, ordered printed and sent up for concurrence.

On motion of Representative WATERHOUSE of Bridgton, the House adjourned at 10:10 a.m., until 9:00 a.m., Tuesday, March 12, 1996.