

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

STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
SECOND REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Tuesday
January 30, 1996

Senate called to Order by the President, Jeffrey H. Butland of Cumberland.

Prayer by Pastor David Lang, Kennebec Valley Assembly of God, Augusta.

PASTOR DAVID LANG: Thank you, Mr. President, Senator Bustin, and Secretary of the Senate Ross, for inviting me here. Let's bow our hearts for a word of prayer.

Oh Great Creator, Sovereign of the Universe, I thank You for Your grace and Your mercy. Lord, I thank You that You delight in righteousness, justice and in mercy. I pray that You may grant wisdom to this body of people here, as they conduct the business of this State. Grant us the strength, the moral fortitude, and the will to follow in Your path of righteousness, justice and mercy. Bless these people. Bless their families and their loved ones. I thank You for all these things, through Jesus Christ, my Lord. Amen.

Pledge of Allegiance led by **SENATOR STEVENS** of Androscoggin.

Reading of the Journal of Thursday, January 25, 1996.

Off Record Remarks

COMMUNICATIONS

The Following Communication:

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

January 22, 1996

Members of the 117th Legislature,

I am pleased to submit to you the 1996 annual report of the State Nuclear Safety Advisor.

In previous years, my annual report to the Maine Legislature summarized the operation of the Maine Yankee Nuclear Power Station with respect to the plant's performance, inspections by the U.S. Nuclear Regulatory Commission, and monitoring activities of the State Nuclear Safety Inspection program. As is well known, Maine Yankee only operated the first two weeks in January 1995, and remained shut down for almost exactly one year to undergo a major repair, and to address technical issues on safety systems brought forth by an anonymous allegation. This report summarizes the activities and findings of the State with regard to these issues.

This report also briefly discusses the status of high-level and low-level radioactive waste management in Maine, and my activities associated with the Northeast High-Level Radioactive Waste Transportation Task Force.

Issues involving Maine Yankee as an energy source and the safe management of radioactive materials in

Maine continue to be of considerable interest to the people of Maine. I am sure this report will aid in understanding nuclear safety issues, and will contribute to informed decision-making.

Sincerely,
S/Uldis Vanags
State Nuclear Safety Advisor
S.C. 432

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

The Following Communication:

117TH MAINE LEGISLATURE

January 29, 1996

Senator Vinton E. Cassidy
Representative Robert W. Spear

Chairpersons
Joint Standing Committee on Agriculture, Conservation and Forestry

117th Legislature
Augusta, Maine 04333

Dear Senator Cassidy and Representative Spear:

Please be advised that Governor Angus S. King, Jr. has nominated Katherine O. Musgrave of Orono and Colon E. Durrell of Farmington for reappointment as members of the Maine Milk Commission.

Pursuant to Title 7, MRSA Section 2952, these nominations will require review by the Joint Standing Committee on Agriculture, Conservation and Forestry and confirmation by the Senate.

Sincerely,
S/Jeffrey H. Butland
President of the Senate
S/Dan A. Gwadosky
Speaker of the House
S.P. 681

Which was **READ** and referred to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY.**
Sent down for concurrence.

SENATE PAPERS

Bill "An Act to Encourage High-quality Maine Jobs through a 21st-century Maine Program" (Emergency)
S.P. 680 L.D. 1746

Presented by Senator **FAIRCLOTH** of Penobscot
Cosponsored by Representative **ROWE** of Portland and Senators: **CIANCHETTE** of Somerset, **GOLDTHWAIT** of Hancock, Representative: **POVICH** of Ellsworth
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Reference to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** suggested and **ORDERED PRINTED.**

Which was referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED.**
Sent down for concurrence.

Bill "An Act to Establish the Boundary Line between the Town of Cornville and the Towns of Solon and Athens"

S.P. 679 L.D. 1745

Presented by Senator **HILLS** of Somerset
Cosponsored by Representatives: **RICHARD** of Madison, **STEDMAN** of Hartland
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

Reference to the Committee on **STATE AND LOCAL GOVERNMENT** suggested and **ORDERED PRINTED.**

Which was referred to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED**.
Sent down for concurrence.

COMMITTEE REPORT
House

Ought to Pass

The Committee on **LABOR** on Bill "An Act to Amend the Overtime Laws as They Pertain to Bonuses" (Emergency)

H.P. 1174 L.D. 1606

Reported that the same **Ought to Pass**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

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

SECOND READER

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

Senate

Bill "An Act to Restore the Safety Defense to the Maine Human Rights Act" (Emergency)

S.P. 620 L.D. 1625

Which was **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**.

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted on were sent forthwith.

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

Off Record Remarks

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

Off Record Remarks

Senate at Ease
Senate called to order by the President.

On motion by Senator **LAWRENCE** of York, **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:

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Require Prisoners to Pay Their Fair Share of Victim Restitution"

H.P. 1263 L.D. 1738

Reference to the Committee on **CRIMINAL JUSTICE** suggested and **ORDERED PRINTED**.

Comes from the House, referred to the Committee on **CRIMINAL JUSTICE** and **ORDERED PRINTED**.

Which was referred to the Committee on **CRIMINAL JUSTICE**, in concurrence.

Bill "An Act to Establish Consistency between Federal and State Drinking Water Laws"

H.P. 1268 L.D. 1743

Reference to the Committee on **HUMAN RESOURCES** suggested and **ORDERED PRINTED**.

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

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

Bill "An Act Authorizing Officers of Closely Held Corporations to Represent those Corporations before Any Court"

H.P. 1264 L.D. 1739

Reference to the Committee on **JUDICIARY** suggested and **ORDERED PRINTED**.

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

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

Bill "An Act to Amend the Definition of Outdoor Stadium in the Liquor Licensing Laws" (Emergency)

H.P. 1267 L.D. 1742

Bill "An Act to Revise the State Active Service Laws" (Emergency)

H.P. 1269 L.D. 1744

Reference to the Committee on **LEGAL AND VETERANS AFFAIRS** suggested and **ORDERED PRINTED**.

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

Which were referred to the Committee on **LEGAL AND VETERANS AFFAIRS**, in concurrence.

Bill "An Act to Enable the Loring Development Authority to Establish the Loring Job Increment Financing Fund and to Impose Term Limits on Trustees of the Authority"

H.P. 1266 L.D. 1741

Reference to the Committee on **TAXATION** suggested and **ORDERED PRINTED**.

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

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

Bill "An Act to Exempt Working Rural Mail Carriers from the Seat Belt Law"

H.P. 1265 L.D. 1740

Reference to the Committee on **TRANSPORTATION** suggested and **ORDERED PRINTED**.

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

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

**Pursuant to Resolve
COMMISSION TO STUDY TRESPASS LAWS**

The **COMMISSION TO STUDY TRESPASS LAWS**, pursuant to Resolve 1995, chapter 53 asked leave to submit its findings and reported, pursuant to Joint Rule 20, that the accompanying Bill "An Act to Improve the Ability of Potential Users of Private Land to Seek Permission from Landowners"

H.P. 1262 L.D. 1737

Be referred to the Committee on **INLAND FISHERIES AND WILDLIFE** for Public Hearing and ordered printed.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill referred to the Committee on **INLAND FISHERIES AND WILDLIFE** and **ORDERED PRINTED**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill referred to the Committee on **INLAND FISHERIES AND WILDLIFE**, in concurrence.

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order:

**JOINT ORDER PROPOUNDING QUESTIONS
TO THE JUSTICES OF THE
SUPREME JUDICIAL COURT**

WHEREAS, it appears to the Senate and the House of Representatives of the 117th Legislature that the following are important questions of law and that this is a solemn occasion; and

WHEREAS, the Constitution of Maine, Article VI, Section 3, provides for the Justices of the Supreme Judicial Court to render their opinion on these questions; and

WHEREAS, L.D. 1003 from the First Regular Session of the 117th Legislature proposed amending the Constitution of Maine to provide a line-item veto power to the Governor; and

WHEREAS, L.D. 1003 was passed by the Legislature and sent to the people of Maine as 1995 Constitutional Resolution, chapter 1, who passed the measure by referendum vote at the statewide election in November 1995; and

WHEREAS, there exists some ambiguity and confusion as to the operation of the Constitution of Maine, Article IV, Part Third, Section 2-A and the relationship between the line-item veto power articulated in Section 2-A and the more general veto power of the Governor articulated in Article IV, Part Third, Section 2; and

WHEREAS, in each session of the Legislature there are many legislative documents with an appropriation section, an allocation section or both and the current session is no exception; and

WHEREAS, it is critical to have these outstanding issues resolved in advance of the exercise of the line-item veto; and

WHEREAS, unless the questions of law posed at this solemn occasion are answered, the ability of the Legislature and the Governor to carry out their constitutional duties and responsibilities may be severely compromised; and

WHEREAS, it is important that the Legislature be informed as to the questions raised in this Order; now, therefore, be it

ORDERED, that in accordance with the provisions of the Constitution of Maine, the Senate and the House of Representatives respectfully request the

Justices of the Supreme Judicial Court to give the Senate and the House of Representatives their opinion on the following questions of law:

Question No. 1. Once the Governor has exercised the line-item veto power under Section 2-A, if the Legislature overrides any dollar amount vetoed, is the Legislature required to return the document to the Governor to allow the Governor to use the more general veto power under Section 2 to veto the entire document, even though Section 2-A by its own terms provides that any part or parts of the legislative document not specifically revised become law?

Question No. 2. If the answer to question 1 is yes:

A. Does the 10-day limitation imposed on the Governor by Section 2 begin to run upon the initial presentation to the Governor regardless of whether the line-item veto power is used or does it begin to run when it is returned to the Governor again?

B. Within what time frame must the Legislature return the document to the Governor?

C. If the Governor were to attempt to return the document with a second or subsequent exercise of the line-item veto power, must the Legislature continue to reconsider the returned document under Section 2-A?

Question No. 3. For emergency legislation, what is the effective date for any dollar amount revised by the Governor through the use of the line-item veto power in Section 2-A on which the Legislature fails to take action, fails to override or overrides?

H.P. 1270

Comes from the House **READ** and **PASSED**.

Which was **READ** and **PASSED**, in concurrence.

Off Record Remarks

On motion by Senator **CIANCHETTE** of Somerset, **ADJOURNED** until Thursday, February 1, 1996 at 9:00 o'clock in the morning.