

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
Thursday
February 22, 1996

Senate called to Order by the President Pro
Tempore Mary E. Small of Sagadahoc.

Prayer by Father John Paddock of Grace Episcopal
Church, Bath.

FATHER JOHN PADDOCK: Let us pray. Eternal God,
Creator of us all, who called into being the people
of God and set before them the servant Moses, the
lawgiver, we are mindful this day of the work of
Moses, who brought together the elders of Israel for
the good governance of the people. We are mindful,
also, of the prophets who reminded the people of God
of their highest calling, which was to do justice and
to love mercy and to walk humbly with their God. We
pray this day that this body, this Senate of Maine,
may work to make laws which are just and fair and
reflect mercy and compassion. We pray that each
Senator may be given wisdom and honor and work with
good will. We pray that, corporately, this body may
make laws for the benefit and welfare of all the
people of this State. These things we pray in the
name of God. Now, may the blessing of God; the
Father, the Son and the Holy Spirit; be with you this
day, forever. Amen.

Reading of the Journal of Tuesday, February 20,
1996.

Out of order and under suspension of the Rules,
on motion by Senator KIEFFER of Aroostook, the
following Joint Order:

ORDERED, the House concurring, that when the
House and Senate adjourn, they do so until Tuesday,
February 27, 1996, at 10:00 o'clock in the morning.

S.P. 708

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

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

Off Record Remarks

ORDER
Joint Resolution

On motion by Senator **MICHAUD** of Penobscot.
Cosponsored by: Senator **BERUBE** of Androscoggin,
Senator **CAREY** of Kennebec, Senator **FERGUSON** of
Oxford, Senator **HATHAWAY** of York, Senator **O'DEA** of
Penobscot, Senator **PARADIS** of Aroostook, Senator
RUHLIN of Penobscot, Representative **AHEARNE** of
Madawaska, Representative **BOUFFARD** of Lewiston,
Representative **FISHER** of Brewer, Representative
JACQUES of Waterville, Representative **KEANE** of Old
Town, Representative **LaFOUNTAIN** of Biddeford,
Representative **MARTIN** of Eagle Lake, Representative
MITCHELL of Vassalboro, Representative **NADEAU** of
Saco, Representative **POULIOT** of Lewiston,
Representative **ROSEBUSH** of East Millinocket,
Representative **SIROIS** of Caribou.

**JOINT RESOLUTION RECOGNIZING THE 100TH ANNIVERSARY
OF THE MAINE STATE COUNCIL OF THE KNIGHTS OF COLUMBUS**
WHEREAS, the Maine State Council of the Knights
of Columbus is celebrating its 100th Anniversary
during 1996; and

WHEREAS, the Maine State Council of the Knights
of Columbus is a Catholic family fraternal service
organization; and

WHEREAS, the Maine State Council of the Knights
of Columbus, through its subordinate councils, has
contributed millions of dollars of financial aid to
the less fortunate of the State of Maine; and

WHEREAS, the Maine State Council of the Knights
of Columbus, through its subordinate councils, has
contributed millions of hours in assisting people in
need in the State of Maine; and

WHEREAS, the State Deputy, Lynn Cayford, the
leader of the Knights of Columbus, continues to
foster support and assistance to people in need
through his stewardship; now, therefore, be it

RESOLVED: That We, the Members of the One
Hundred and Seventeenth Legislature, now assembled in
the Second Regular Session, offer our congratulations
and best wishes to the members of the Knights of
Columbus on the occasion of their organization's
100th Anniversary; and be it further

RESOLVED: That suitable copies of this
resolution, duly authenticated by the Secretary of
State, be transmitted to the State Deputy of the
Maine State Council of the Knights of Columbus in
honor of the occasion.

S.P. 709

Which was **READ** and **ADOPTED**.
Sent down for concurrence.

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **JUDICIARY** on Bill "An Act
Concerning Real Estate Trusts"

H.P. 477 L.D. 658

Reported that the same **Ought to Pass as Amended**
by **Committee Amendment "A" (H-704)**.

Comes from the House with the Report **READ** and
ACCEPTED and the Bill **PASSED TO BE ENGROSSED AS**
AMENDED BY COMMITTEE AMENDMENT "A" (H-704).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-704) **READ** and **ADOPTED**,
in concurrence.

The Bill, as Amended, **TOMORROW ASSIGNED FOR**
SECOND READING.

The Committee on **CRIMINAL JUSTICE** on Bill "An Act
to Increase the Penalty for Criminal Restraint of a
Young Child or a Dependent Person"

H.P. 1211 L.D. 1661

Reported that the same **Ought to Pass as Amended**
by **Committee Amendment "A" (H-700)**.

Comes from the House with the Report **READ** and
ACCEPTED and the Bill **PASSED TO BE ENGROSSED AS**
AMENDED BY COMMITTEE AMENDMENT "A" (H-700).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-700) **READ** and **ADOPTED**,
in concurrence.

The Bill, as Amended, **TOMORROW ASSIGNED FOR SECOND READING.**

The Committee on **CRIMINAL JUSTICE** on Bill "An Act to Provide Recovery for Motor Vehicle Damage to Forest Lands"

H.P. 1232 L.D. 1685

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-701).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-701).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-701) **READ** and **ADOPTED**, in concurrence.

The Bill, as Amended, **TOMORROW ASSIGNED FOR SECOND READING.**

The Committee on **CRIMINAL JUSTICE** on Bill "An Act to Enhance Fireworks Safety"

H.P. 1233 L.D. 1693

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-702).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-702).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-702) **READ** and **ADOPTED**, in concurrence.

The Bill, as Amended, **TOMORROW ASSIGNED FOR SECOND READING.**

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Reduce the Number of Legislative Confirmation Hearings"

H.P. 1241 L.D. 1701

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-699).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-699).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-699) **READ** and **ADOPTED**, in concurrence.

The Bill, as Amended, **TOMORROW ASSIGNED FOR SECOND READING.**

Off Record Remarks

The Committee on **TAXATION** on Bill "An Act to Provide a Tax Credit for the Rehabilitation of Historic Properties"

H.P. 715 L.D. 972

Reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-703)**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-703) AS AMENDED BY HOUSE AMENDMENT "A" (H-715),** thereto.

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

The Bill **READ ONCE.**

Committee Amendment "B" (H-703) **READ.**

House Amendment "A" (H-715) to Committee Amendment "B" (H-703) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "B" (H-703) as amended by House Amendment "A" (H-715) thereto, **ADOPTED**, in concurrence.

The Bill, as Amended, **TOMORROW ASSIGNED FOR SECOND READING.**

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Discourage the Spread of "Crack" Cocaine"

H.P. 1038 L.D. 1457

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-696).**

Signed:

Senators:

BENOIT of Franklin
HALL of Piscataquis
O'DEA of Penobscot

Representatives:

BUNKER, JR. of Kossuth Township
GOOLEY of Farmington
JOHNSON of South Portland
PEAVEY of Woolwich
THOMPSON of Naples
REED of Dexter

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-697).**

Signed:

Representatives:

CLARK of Millinocket
CLUKEY of Houlton
MCALEVEY of Waterboro
WHEELER of Bridgewater

Comes from the House with the Minority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-697).**

Which Reports were **READ.**

On motion by Senator KIEFFER of Aroostook, Tabled 1 Legislative Day, pending **ACCEPTANCE** of either report.

Senate

Ought to Pass As Amended

Senator CASSIDY for the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Amend the Law Allowing the Growth and Sale of Cultivated Ginseng in Maine" (Emergency)

S.P. 649 L.D. 1691

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-434).**

Which Report was **READ** and **ACCEPTED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-434) **READ** and **ADOPTED.**

The Bill as Amended, **TOMORROW ASSIGNED FOR SECOND READING.**

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act Relating to the Sale of Alcoholic Beverages"

S.P. 624 L.D. 1632

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

Signed:

Senators:

FERGUSON, JR. of Oxford
MICHAUD of Penobscot

Representatives:

FISHER of Brewer
CARR of Hermon
MURPHY of Berwick
LEMONT of Kittery
BUCK of Yarmouth
GAMACHE of Lewiston

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass.**

Signed:

Senator:

STEVENS, JR. of Androscoggin

Representatives:

TRUE of Fryeburg
LABRECQUE of Gorham
NADEAU of Saco
CHIZMAR of Lisbon

Which Reports were **READ.**

On motion by Senator **KIEFFER** of Aroostook, Tabled 1 Legislative Day, pending **ACCEPTANCE** of either report.

SECOND READERS

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

House

Resolve, to Extend Deadlines Relating to the Task Force to Review the Beverage Container Deposit Laws (Emergency)

H.P. 1175 L.D. 1607

Bill "An Act to Describe Property Posting under the Criminal Trespass and Trespass by Motor Vehicle Laws"

H.P. 1247 L.D. 1709

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, in concurrence.

House As Amended

Bill "An Act Concerning Portable Scale Tolerances on the Interstate Highway System"

H.P. 1227 L.D. 1680
(C "A" H-695)

Which was **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

Senate

Bill "An Act to Clarify Professional Liability"

S.P. 627 L.D. 1634

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

Sent down for concurrence.

Senate As Amended

Bill "An Act to Decrease the Paperwork Burden on Maine Businesses by Decreasing the Number of Tax Filings for Retailers"

S.P. 79 L.D. 167
(C "B" S-431)

Bill "An Act to Reform the Standard of Fiduciary Prudence"

S.P. 615 L.D. 1618
(C "A" S-432)

Bill "An Act to Extend Waivers of Certain Provisions of the Education Laws"

S.P. 634 L.D. 1642
(C "A" S-433)

Bill "An Act to Create a Scallop Diving Tender License"

S.P. 655 L.D. 1715
(C "A" S-430)

Bill "An Act Allowing Towns to Form Regional Shellfish Management Committees"

S.P. 657 L.D. 1717
(C "A" S-429)

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended.**

Sent down for concurrence.

Senate at Ease

Senate called to order by the President Pro Tem.

Off Record Remarks

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

Senator **HARRIMAN**: Thank you, Madam President. Good morning, Ladies and Gentlemen of the Senate. I rise this morning to share with you a moment that, I think, bodes well for the future of our State, and, indeed, our country. My friend today, Sam Sewall, who was just recognized, is celebrating his eleventh birthday today. When his Mom, Jay, asked him what he would like to do for his birthday, it was his idea to come to the State House and learn how our government works and the people who represent him here. I thought you might find that refreshing and inspiring for all of us. Thank you.

**ORDERS OF THE DAY
Unfinished Business**

The following matter in the consideration of which the Senate was engaged at the time of Adjournment has preference in the Orders of the Day and continues with such preference until disposed of as provided by Senate Rule 29.

The Chair laid before the Senate the following Tabled and Specially Assigned (Tuesday, February 13, 1996) matter:

HOUSE REPORT - from the **COMMITTEE ON NATURAL RESOURCES** on Bill "An Act to Require Notification to the Landowner When Land Is Being Considered for Placement in a Resource Protection Zone"

H.P. 609 L.D. 819

Report - **Ought to Pass as Amended by Committee Amendment "B" (H-685)**

Tabled - February 8, 1996, by Senator **KIEFFER** of Aroostook.

Pending - **ACCEPTANCE OF THE REPORT.**

(In House, February 6, 1996, **PASSED TO BE**

ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-685).

(In Senate, February 8, 1996, Report READ.)

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

The Bill **READ ONCE**.

Committee Amendment "B" (H-685) **READ**.

On motion by Senator **CLEVELAND** of Androscoggin, Senate Amendment "A" (S-436) to Committee Amendment "B" (H-685) **READ**.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator **CLEVELAND:** Thank you, Madam President. This amendment does two things which, I believe, are consistent with the intention of the bill, and which, I think, provide some clarification. The first thing that it does is clarify that those individuals whose lands are currently in resource protection, if there is a change or adoption of a different map, which occurs from time to time in municipalities, the intent is that those individuals don't have to be renotified again, because there isn't a change in status of the land use of their current property. That was the intent of the bill, and I think the language that I suggest makes that even more explicitly clear. Secondly, what it does is it makes a little more explicitly clear the time which, at the minimum, which notifications have to be sent out so individuals are aware if their property may be added to a resource protection zone, so they can be present to make whatever comments that they want. I have had the opportunity to talk, both with Senator Lord and with Senator Ruhlin. Both, I believe, feel it is consistent with what the intent of the Committee has been. I appreciate your patience in allowing me to craft the language for the amendment. Thank you.

Senate Amendment "A" (S-436) to Committee Amendment "B" (H-685) **ADOPTED**.

Committee Amendment "B" (H-685), as Amended by Senate Amendment "A" (S-436), thereto, **ADOPTED**, in **NON-CONCURRENCE**.

The Bill, as Amended, **TOMORROW ASSIGNED FOR SECOND READING**.

Off Record Remarks

Senator **LAWRENCE** of York was granted unanimous consent to address the Senate off the Record.

Senator **AMERO** of Cumberland was granted unanimous consent to address the Senate off the Record.

On motion by Senator **AMERO** of Cumberland, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President Pro Tem.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Increase the Reimbursement Levels for Forest Fire Suppression Costs"

H.P. 1321 L.D. 1808

Reference to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** suggested and **ORDERED PRINTED**.

Comes from the House, referred to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and **ORDERED PRINTED**.

Which was referred to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**, in concurrence.

Bill "An Act to Exclude Services Provided by Direct Sellers from the Definition of Employment for Purposes of Unemployment Compensation"

H.P. 1320 L.D. 1807

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

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

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

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

COMMITTEE REPORT

House

Change of Reference

The Committee on **NATURAL RESOURCES** on Bill "An Act to Support Abatement of Uncontrolled Tire Stockpiles"

H.P. 1298 L.D. 1781

Reported that the same be **REFERRED** to the Committee on **TAXATION**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **TAXATION**.

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

The Bill **REFERRED** to the Committee on **TAXATION**, in concurrence.

Senate at Ease

Senate called to order by the President Pro Tem.

Senator **AMERO** of Cumberland was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

The **ADJOURNMENT ORDER** having been returned from the House **READ** and **PASSED**, in concurrence, on motion by the **PRESIDENT PRO TEM**, **ADJOURNED** until Tuesday, February 27, 1996, at 10:00 o'clock in the morning.