

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-First Legislature
State of Maine

Volume II

First Regular Session (Continued)
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First Special Session
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First Confirmation Session
October 30, 2003

Second Regular Session
January 7, 2004 to January 30, 2004

Second Special Session
February 3, 2004 to March 18, 2004

Pages 715 - 1415

STATE OF MAINE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
SECOND SPECIAL SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Thursday
February 5, 2004

Senate called to order by President Beverly C. Daggett of
Kennebec County.

Prayer by Pastor Edward Hatch, Palermo Christian Church.

PASTOR HATCH: Before I pray I just wanted to make a couple of remarks. I followed, as many of you did and perhaps you followed more intensely, the accident that our Governor was involved in yesterday. I thought about how much of an impact that must have had on many of you. I do believe that there was a bi-partisan desire that he come out of it all right, which he certainly did. As I thought about that, I was thinking about how concerned everyone of us should be as to the length of our life. The Bible says it is like a vapor and the scripture tells us in Psalm 90 'teach us to number our days, that we can apply our hearts to wisdom.' I thought that everyday there ought to be three things we ought to be sure of. The first is that we are right with God. The second is that we are right with our fellow human beings. The third is that we use our time and our day wisely. It will be my prayer today that this will be done for each one of us. Let us bow for prayer.

Our Heavenly Father, we are thankful today for the many blessings that You give to us. As we come here before You today, we are thankful for the health of our Governor, for the recovery that he has had. We continue to pray both for him and for Trooper Trask. We pray for a speedy recovery for them.

Lord, we are thankful for the day that You have given us today. We pray that we might use it wisely, that the decisions that we make and the things that we do would be things that would be making best use of our time and that You will bless richly what is done here within this Senate chamber today. We will thank You in Jesus' name. Amen.

Doctor of the day, A. Catriona Shepherd, M.D. of Portland.

Reading of the Journal of Wednesday, February 4, 2004.

Off Record Remarks

The Chair noted the absence of the Senator from Somerset, Senator **HATCH**, and the Senator from Kennebec, Senator **TREAT** and further excused the same Senators from today's Roll Call votes.

Out of order and under suspension of the Rules, on motion by Senator **GAGNON** of Kennebec, the following Joint Order:
S.P. 688

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, February 10, 2004, at 10:00 in the morning.

READ and PASSED.

Ordered sent down forthwith for concurrence.

COMMUNICATIONS

The Following Communication: S.C. 446

121ST LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND
FORESTRY

February 4, 2004

The Honorable Beverly C. Daggett
President of the Senate of Maine
121st Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 121st Maine Legislature, the Joint Standing Committee on Agriculture, Conservation and Forestry has had under consideration the nomination of George W. McHale of Orrington, for appointment to the State Harness Racing Commission.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS	Senators	3	Bryant of Oxford, Kneeland of Aroostook, Youngblood of Penobscot
	Representatives	9	Carr of Lincoln, Churchill of Orland, Eder of Portland, Fletcher of Winslow, Honey of Boothbay, Lundeen of Mars Hill, Pineau of Jay, Piotti of Unity, Smith of Monmouth

NAYS	0	
ABSENT	1	Rep. McKee of Wayne

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of George W. McHale of Orrington, for appointment to the State Harness Racing Commission be confirmed.

Signed,

S/Bruce S. Bryant
Senate Chair

S/Linda Rogers McKee
House Chair

READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 121st Legislature, the vote was taken by the Yeas and Nays.

The Chair noted the absence of the Senator from Franklin, Senator **WOODCOCK** and further excused the same Senator from today's Roll Call votes.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#237)

YEAS: Senators: None

NAYS: Senators: BENNETT, BLAIS, BRENNAN, BROMLEY, BRYANT, CARPENTER, CATHCART, DAMON, DAVIS, DOUGLASS, EDMONDS, GAGNON, GILMAN, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MAYO, MITCHELL, NASS, PENDLETON, ROTUNDO, SAVAGE, STANLEY, STRIMLING, TURNER, WESTON, YOUNGBLOOD, THE PRESIDENT – BEVERLY C. DAGGETT

ABSENT: Senators: HALL, SAWYER, SHOREY

EXCUSED: Senators: HATCH, TREAT, WOODCOCK

No Senator having voted in the affirmative and 29 Senators having voted in the negative, with 3 Senators being absent and 3 Senators being excused, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **George W. McHale** of Orrington, for appointment to the State Harness Racing Commission was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

The Following Communication: S.C. 445

**121ST LEGISLATURE
COMMITTEE ON INSURANCE AND FINANCIAL SERVICES**

January 29, 2004

Honorable Beverly C. Daggett, President of the Senate
Honorable Patrick Colwell, Speaker of the House
121st Maine Legislature
State House
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Insurance and Financial Services has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 667 An Act To Amend the Maine Insurance Code

L.D. 1181 An Act To Provide Fair Hearings in Health Insurance Rate Proceedings

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Lloyd P. LaFountain III
Senate Chair

S/Rep. Christopher P. O'Neil
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

ORDERS

Joint Order

On motion by Senator **GAGNON** of Kennebec, under unanimous consent on behalf of President DAGGETT of Kennebec, (Cosponsored by Speaker COLWELL of Gardiner), the following Joint Order:

S.P. 689

WHEREAS, the property tax burden in the State continues to be an issue of widespread public concern; and

WHEREAS, federal mandates have placed increasing costs and demands on each unit of local government, regardless of size; and

WHEREAS, regional cooperative efforts may provide efficiencies in the delivery of public services; and

WHEREAS, many local governments and school districts are considering new regional initiatives and have requested information and assistance from State Government; and

WHEREAS, legislation relating to the regionalization of municipalities, counties and public schools has been or soon will be introduced; and

WHEREAS, such legislation raises issues that are normally placed before several different joint standing committees of the Legislature; now, therefore, be it

ORDERED, the House concurring, that pursuant to Joint Rule 351 the Joint Select Committee on Regionalization and Community Cooperation, referred to in this order as "the committee," is established. The committee consists of 4 members of the Senate appointed by the President of the Senate and 11 members of the House of Representatives appointed by the Speaker of the House. The first-named Senate and House members shall serve as co-chairs of the committee. The committee shall identify barriers as well as incentives to regionalization and shall consider and dispose of any legislation referred to it by the bodies. The committee may submit legislation concerning regionalization to the Legislature.

READ.

Senator **MARTIN** of Aroostook moved to **TABLE** 1 Legislative Day, pending the motion by Senator **GAGNON** of Kennebec to **PASS**.

On motion by Senator **GAGNON** of Kennebec, **TABLED** until Later in Today's Session, pending motion by same Senator to **PASS**.

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine To Reduce Voting Age Qualifications by 12 Months

H.P. 470 L.D. 640

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-637)**.

Signed:

Senators:
GAGNON of Kennebec
MAYO of Sagadahoc

Representatives:
GLYNN of South Portland
PATRICK of Rumford
BLANCHETTE of Bangor
CANAVAN of Waterville
JENNINGS of Leeds
HOTHAM of Dixfield

BROWN of South Berwick
MOORE of Standish
LANDRY of Sanford

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

Signed:

Senator:
LEMONT of York

Representative:
CLARK of Millinocket

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the **RESOLUTION PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-637)**.

Reports **READ**.

Senator **GAGNON** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Senate

Ought to Pass As Amended

Senator LAFOUNTAIN for the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Amend the Maine Consumer Credit Code Regarding Balloon Payments"
S.P. 602 L.D. 1638

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-378)**.

Report **READ** and **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-378) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator LAFOUNTAIN for the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Clarify Membership on Boards of Directors for Maine Financial Institutions"
(EMERGENCY)

S.P. 649 L.D. 1717

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-376).**

Report **READ** and **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-376) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Eliminate State Licensing of Boxers, Wrestlers and Transient Sellers"
S.P. 468 L.D. 1410

Reported that the same **Ought Not to Pass**.

Signed:

Representatives:

SULLIVAN of Biddeford
O'BRIEN of Lewiston
DUPREY of Medway
PELLON of Machias
SMITH of Monmouth
AUSTIN of Gray
BERUBE of Lisbon

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-377).**

Signed:

Senators:

BROMLEY of Cumberland
HALL of Lincoln
SHOREY of Washington

Representatives:

JACOBSEN of Waterboro
RECTOR of Thomaston
ROGERS of Brewer

Reports **READ**.

Senator **BROMLEY** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Bromley.

Senator **BROMLEY:** Thank you, Madame President. This bill seeks to do away with the athletic commission that oversees professional boxing. One might think that we ought to be regulating that. It is important to note that we've only had two

professional fights in Maine in the last seven years. We have a whole system or infrastructure to regulate something that doesn't happen very often. By eliminating this, we eliminate the overhead in that department. Also it is important to note that there are national entities that do this regulation in the absence of a state board. I would urge you to support the pending motion. Thank you.

On motion by Senator **BROMLEY** of Cumberland, the Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-377) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

SECOND READERS

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

House As Amended

Bill "An Act To Ensure Women's Health Care Coverage for All Maine Women" (EMERGENCY)
H.P. 995 L.D. 1353
(C "A" H-648)

Bill "An Act To Amend the Laws Governing the Display of Fireworks and Indoor Pyrotechnics"
H.P. 1266 L.D. 1744
(C "A" H-644)

Bill "An Act To Correct Certain Errors and Inconsistencies in Marine Resources Laws"
H.P. 1280 L.D. 1758
(C "A" H-647)

READ A SECOND TIME and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency Measure

An Act To Refine the Criteria for Issuing a Certificate of Need
S.P. 82 L.D. 159
(C "A" S-363)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with no Senators having voted in the negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Resolve

Resolve, To Clarify State Ownership of Land in the Town of Naples

H.P. 1222 L.D. 1644

FINALLY PASSED and having been signed by the President was presented by the Secretary to the Governor for his approval.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass

Senator NASS for the Committee on **TAXATION** on Resolve, Authorizing the State Tax Assessor To Convey the Interest of the State in Certain Real Estate in the Unorganized Territory

S.P. 635 L.D. 1703

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

Report **READ** and **ACCEPTED**.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Require Surety Bonding by Payroll Processing Companies" (EMERGENCY)

H.P. 1369 L.D. 1843

Comes from the House, **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed.

On motion by Senator **BROMLEY** of Cumberland, **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

**Pursuant to Statute
Criminal Law Advisory Commission**

The **Criminal Law Advisory Commission**, pursuant to the Maine Revised Statutes, Title 17-A, chapter 55 asked leave to report that the accompanying Bill "An Act To Amend the Maine Criminal Code and Motor Vehicle Laws as Recommended by the Criminal Law Advisory Commission"

H.P. 1370 L.D. 1844

Be **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed pursuant to Joint Rule 218.

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

On motion by Senator **STRIMLING** of Cumberland, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed pursuant to Joint Rule 218, in concurrence.

Senate at Ease.

Senate called to order by the President.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

JOINT ORDER – relative to Establishing the Joint Select Committee on Regionalization and Community Cooperation
S.P. 689

Tabled – February 5, 2005, by Senator **GAGNON** of Kennebec

Pending – motion by same Senator to **PASS**

(In Senate, February 5, 2005, on motion by Senator **GAGNON** of Kennebec, **READ**.)

On motion by Senator **GAGNON** of Kennebec, the Joint Order was **PASSED**.

Ordered sent down forthwith for concurrence.

Senator **DAVIS** of Piscataquis was granted unanimous consent to address the Senate off the Record.

On motion by Senator **GAGNON** of Kennebec, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, February 10, 2004, at 10:00 in the morning.