

MAINE STATE LEGISLATURE

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STATE OF MAINE
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
SECOND REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Tuesday
January 12, 2010

Senate called to order by President Elizabeth H. Mitchell of
Kennebec County.

Prayer by Pastor Stephen Tracey, Lakeview Orthodox
Presbyterian Church of West Rockport.

PASTOR TRACEY: Thank you for your kind invitation to be here again. I notice that Miss Maine is in the House of Representatives and I'm sorry that I don't compare to Miss Maine. A few thoughts before I lead you in prayer. I recently watched the movie Invictus. It's a rugby movie and I am a rugby fan. It's a movie about South Africa and I lived and worked in South Africa in the years 1982 and 1983. It's a movie about Nelson Mandela and I remember where I was the day Nelson Mandela was released from prison. It's about the 1995 Rugby World Cup held in South Africa and famously won by the South African Springboks and I watched that game live on television. What I did not know then is that that game solidified change in the Republic of South Africa. So being a book lover, I went to that great book store, Amazon.com, where you can't smell books but you can get books, and I bought the book Playing with the Enemy by John Carlin. It's a good book. It's a good movie. South Africa and Nelson Mandela are not perfect but something happened in that country and especially on that day. That was the day that Afrikaners accepted Nelson Mandela as their President and South Africa became a new nation. When President Mandela stepped forward to present the Springbok's captain, Francois Pienaar, with the trophy he put one hand on Francois Pienaar's shoulder and held his hand and said 'Francois, thank you very much for what you have done for our country.' The big Afrikaner had reached his moment of glory as a rugby player. He was at the top and without batting an eyelid he replied to Nelson Mandela, 'No, Mr. President, thank you for what you have done for our country.' Someone commented on those words, that that response was made in heaven. That set me thinking about words and the power of words. In Colossians 4 verse 6 God says, 'Let your speech be always with grace.' Even to speak we need God's grace. Grace is the mercy of God by which He gives sinners a new heart. We need the grace of God. Let us pray.

Oh God, our Father, Lord of all creation, the King of Kings and Lord of Lords, grant us grace to hear Your son. We confess that our speech is often full of bragging or complaining or carelessness. We confess our words are often full of gossip, malice, and anger. We know that we slip and slide into a war of words as easily as we slip and slide on the snow. We thank You that You have made wonderful promises in Your grace and by Your grace, that though our sins be as scarlet, they shall be as white as snow. Give to us that grace.

We pray for the members of the Senate, that You will grant to these public servants Your help. Grant the gift of wisdom to know, to see, and to do that which is right in Your sight. Grant the

gift of compassion to care for the people here represented. Grant the gift of love, for if we speak in the tongues of man and of angels but have not love we are a noisy gong or a clanging cymbal. We pray for the families of the Senators. You know each one of them. You know their joy and their sorrow, their pain and their grief, the cost to their mind and heart and body of the work that they do here. Be gracious to each member. May they find refuge in You. We pray for Senator Raye's mother, that You will grant her grace and help her to recover. We pray for Representative Nass, that You will draw near to her as she is ill and help her as she is undergoing tests today. We pray Your grace will be upon us always. We pray these things in the name of Jesus Christ, God the Son, whom to know is life eternal. Amen.

Pledge of Allegiance led by Senator Christopher W. Rector of
Knox County.

Reading of the Journal of Thursday, January 7, 2010.

Doctor of the day, Dr. Richard Flowerdew, MD of Falmouth.

PAPERS FROM THE HOUSE

House Papers

Bill "An Act To Form a Western Maine Regional School Unit"
(EMERGENCY)

H.P. 1228 L.D. 1729

Comes from the House, **REFERRED** to the Committee on
EDUCATION AND CULTURAL AFFAIRS and ordered printed.

On motion by Senator **ALFOND** of Cumberland, **REFERRED** to
the Committee on **EDUCATION AND CULTURAL AFFAIRS** and
ordered printed, in concurrence.

Bill "An Act To Make Supplemental Allocations from the Highway
Fund and Other Funds for the Expenditures of State Government
and To Change Certain Provisions of State Law Necessary to the
Proper Operations of State Government for the Fiscal Years
Ending June 30, 2010 and June 30, 2011" (EMERGENCY)

H.P. 1227 L.D. 1728

Comes from the House, **REFERRED** to the Committee on
TRANSPORTATION and ordered printed.

On motion by Senator **DAMON** of Hancock, **REFERRED** to the
Committee on **TRANSPORTATION** and ordered printed, in
concurrence.

**Pursuant to Statute
Department of Agriculture, Food and Rural Resources**

The **Department of Agriculture, Food and Rural Resources**, pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 28: Notification Provisions for Outdoor Pesticide Applications, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control (EMERGENCY) H.P. 1225 L.D. 1726

Be **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed pursuant to Joint Rule 218.

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

On motion by Senator **MARRACHÉ** of Kennebec, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed pursuant to Joint Rule 218, in concurrence.

**Pursuant to Statute
Department of Health and Human Services**

The **Department of Health and Human Services**, pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 11: Rules Governing the Controlled Substances Prescription Monitoring Program, a Major Substantive Rule of the Department of Health and Human Services, Office of Substance Abuse (EMERGENCY) H.P. 1226 L.D. 1727

Be **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

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

On motion by Senator **BRANNIGAN** of Cumberland, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218, in concurrence.

COMMUNICATIONS

The Following Communication: S.P. 664

**STATE OF MAINE
124TH MAINE LEGISLATURE**

January 11, 2010

Sen. Nancy B. Sullivan
Senate Chair, Joint Standing Committee on Legal and Veterans Affairs
Rep. Pamela Jabar Trinward
House Chair, Joint Standing Committee on Legal and Veterans Affairs
124th Legislature
Augusta, ME 04333

Dear Senator Sullivan and Representative Trinward:

Please be advised that Governor John E. Baldacci has nominated Margaret Matheson of Augusta for appointment to the Commission on Governmental Ethics and Election Practices.

Pursuant to Title 1 M.R.S.A. §1002, this nomination will require review by the Joint Standing Committee on Legal and Veterans Affairs and confirmation by the Senate.

Sincerely,

S/Elizabeth H. Mitchell
President of the Senate

S/Hannah M. Pingree
Speaker of the House

READ and **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS**.

Sent down for concurrence.

The Following Communication: S.P. 665

**STATE OF MAINE
124TH MAINE LEGISLATURE**

January 11, 2010

Sen. Nancy B. Sullivan
Senate Chair, Joint Standing Committee on Legal and Veterans Affairs
Rep. Pamela Jabar Trinward
House Chair, Joint Standing Committee on Legal and Veterans Affairs
124th Legislature
Augusta, ME 04333

Dear Senator Sullivan and Representative Trinward:

Please be advised that Governor John E. Baldacci has nominated Harry Stickney of Augusta and Joseph LaLiberte of Lewiston for appointment to the Gambling Control Board.

Pursuant to Title 8 M.R.S.A. §1002 (4), these nominations will require review by the Joint Standing Committee on Legal and Veterans Affairs and confirmation by the Senate.

Sincerely,

S/Elizabeth H. Mitchell
President of the Senate

S/Hannah M. Pingree
Speaker of the House

READ and REFERRED to the Committee on **LEGAL AND VETERANS AFFAIRS**.

Sent down for concurrence.

The Following Communication: S.C. 552

**STATE OF MAINE
OFFICE OF THE GOVERNOR**

January 7, 2010

The Honorable Elizabeth H. Mitchell
President of the Senate
3 State House Station
Augusta, Maine 04333-0003

Dear President Mitchell,

In accordance with 38 MRSA section 341-C (5), this letter serves notice to the Legislature that it is necessary to extend the term of Ms. Nancy Ziegler as a member of the Board of Environmental Protection to ensure fair consideration of the following matter: Appeal of Designation of Uncontrolled Hazardous Substance Site and Order for the HoltraChem site in Orrington, Maine. This complex proceeding is well underway, and Ms. Ziegler's continued participation is critical to the Board's consideration of the matter.

Ms. Ziegler's term is extended from January 30, 2010 until final Board action on the above-cited matter.

Sincerely,

S/John Elias Baldacci
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 553

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES**

January 7, 2010

Honorable Elizabeth H. Mitchell, Senate President
Honorable Hannah M. Pingree, Speaker of the House
124th Maine Legislature
Augusta, Maine 04333

Dear President Mitchell and Speaker Pingree:

Pursuant to Joint Rule 310, we are writing to notify you that on January 7, 2010 we approved the request by the bill sponsor, Rep. Sharon A. Treat of Farmingdale to report the following bill Leave to Withdraw.

LD 1262 An Act to Restrict Gifts to Health Care Practitioners from Pharmaceutical and Medical Device Manufacturers

Sincerely,

S/Senator Joseph C. Brannigan
Senate Chair

S/Representative Anne C. Perry
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

SENATE PAPERS

Bill "An Act To Improve Safety on Maine's Primary and Secondary Roads, Reduce Road Maintenance Costs and Improve the Environment and the Economy by Allowing Certain Heavy Commercial Vehicles on the Interstate Highway System in Maine" (EMERGENCY)

S.P. 663 L.D. 1736

Presented by Senator DAMON of Hancock. (GOVERNOR'S BILL)

Cosponsored by Representative MAZUREK of Rockland and Senators: GOOLEY of Franklin, President MITCHELL of Kennebec, RAYE of Washington, SCHNEIDER of Penobscot, Representatives: BROWNE of Vassalboro, CEBRA of Naples, HARLOW of Portland, HOGAN of Old Orchard Beach, PEOPLES of Westbrook, Speaker PINGREE of North Haven, PIOTTI of Unity, TARDY of Newport, THERIAULT of Madawaska, THOMAS of Ripley.

On motion by Senator DAMON of Hancock, REFERRED to the Committee on TRANSPORTATION and ordered printed.

Sent down for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

ORDERS

Joint Order

Expression of Legislative Sentiment recognizing:

CA\$H Maine, a collaboration of 8 statewide coalitions, composed of 50 nonprofit and for-profit partners, for its contributions to the people of Maine. CA\$H Maine is the nation's largest free, volunteer-run tax assistance and preparation service. CA\$H Maine is working together with AARP Tax-Aide to help low-income and moderate-income citizens of Maine by providing them with free tax preparation services and financial education resources. We commend the members of CA\$H Maine on their efforts to help the people of Maine and send them our best wishes on this new season of offering assistance;

SLS 315

Sponsored by Senator ALFOND of Cumberland.
Cosponsored by Senators: COURTNEY of York, ROSEN of Hancock, Representative: ROTUNDO of Lewiston.

READ.

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

Senator **ALFOND:** Thank you, Madame President. I just want to take a moment here. I know that this session has just started and there are many challenges in front of, both politically and economically. Obviously the budget is yet to come. What CA\$H and the CA\$H Coalition is doing actually sheds a lot of light for this day and for a lot of Maine families. I hope everyone takes a look at the CA\$H Maine with the AARP Tax-Aide piece on their desk because if you look at the bottom there it shows that in 2009 over 13,000 households were helped by the CA\$H Coalition. It saved \$2.1 million in income tax return filing fees. It generated \$13.9 million in income tax refunds, including \$3.62 million through the Earned Income Tax Credit. What this statewide coalition is doing is really providing invaluable money to families across the state. As we all know, and we are all getting plenty of phone calls and messages, every dollar matters. I just want to recognize them and thank them for their efforts. I thank them for what they do statewide and I hope they have a great 2010 season. Thank you.

PASSED.

Sent down for concurrence.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the chamber members who are participating in this program, the CA\$H Maine program. Would you please stand and accept the greetings of the Maine Senate.

Off Record Remarks

REPORTS OF COMMITTEES

Senate

Change of Committee

Senator GERZOFKY for the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Strengthen the Laws against Illegal 'Puppy Mill' Operators"

S.P. 605 L.D. 1598

Reported that the same be **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY.**

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

REFERRED to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY.**

Sent down for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

Off Record Remarks

Senate at Ease.
Senate called to order by the President.

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

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

Senator **SCHNEIDER** of Penobscot was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator **RECTOR** of Knox was granted unanimous consent to address the Senate off the Record.

Senator **NUTTING** of Androscoggin was granted unanimous consent to address the Senate off the Record.

On motion by Senator **BARTLETT** of Cumberland,
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 Allow a Municipality To Withdraw from a Regional School Unit"

H.P. 1230 L.D. 1732

Bill "An Act To Exempt from Penalties School Administrative Units That Would Lose Subsidy as a Result of Reorganization" (EMERGENCY)

H.P. 1231 L.D. 1733

Bill "An Act To Require the Department of Education To Calculate Subsidy on the Basis of Membership in a Regional School Unit or an Alternative Organizational Structure and as if the School Administrative Unit Had Not Reorganized as of 2009" (EMERGENCY)

H.P. 1232 L.D. 1734

Bill "An Act To Waive Certain Penalties Imposed against School Administrative Units if the State Has Not Fulfilled Its Goal of Paying 55% of Costs" (EMERGENCY)

H.P. 1233 L.D. 1735

Come from the House, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

On motion by Senator **ALFOND** of Cumberland, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Amend the Bingo Laws"

H.P. 1229 L.D. 1731

Comes from the House, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed.

On motion by Senator **SULLIVAN** of York, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed, in concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Implement the Recommendations of the Initiative To Streamline State Government" (EMERGENCY)
H.P. 1177 L.D. 1668

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-585)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-585)**.

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

READ ONCE.

Committee Amendment "A" (H-585) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Off Record Remarks

On motion by Senator **BARTLETT** of Cumberland, **ADJOURNED** to Thursday, January 14, 2010, at 10:00 in the morning.