

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

In Senate Chamber  
Wednesday  
January 14, 2004

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

---

Prayer by Rabbi Krinsky, Beth Israel Congregation in Waterville.

**RABBI KRINSKY:** All Mighty God, we pray Your blessing upon our Senators as they enact laws that advance the progress of our state and further the potential of its inhabitants. May knowledge guide their deliberations and wisdom inspire their decisions. May they be strong in their convictions and courageous in compromise. May they enjoy the luxury of idealism unfettered and appreciate the value of power restrained. May they pursue justice with passion and clothe her with mercy. May they love peace but not be afraid to join the battle for the preservation of our democracy. May they deal compassionately with that great challenge to government, its responsibility to care for the governed. May we, who summon them to this chamber, remain concerned citizens, involved in the affairs of our communities and responsive to the contributions of our legislators. Amen.

---

Doctor of the day, Kathleen Thibeault, D.O. of Milo.

---

Reading of the Journal of Tuesday, January 13, 2004.

---

PAPERS FROM THE HOUSE

**House Paper**

Bill "An Act To Amend the Membership of the Children's Cabinet"

H.P. 1352 L.D. 1829

Comes from the House, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

On motion by Senator **BRENNAN** of Cumberland, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed, in concurrence.

---

**Pursuant to Statute  
Department of Human Services**

The **Department of 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 16: Foster Home Licensing Rule Regarding Smoking by Foster Parents, a Major Substantive Rule of the Department of Human Services (EMERGENCY)

H.P. 1353 L.D. 1830

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 **BRENNAN** of Cumberland, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218, in concurrence.

---

**ORDERS**

**Joint Order**

On motion by Senator **EDMONDS** of Cumberland, the following Joint Order:

S.P. 673

**ORDERED**, the House concurring, that the Joint Standing Committee on Labor report out, to the Senate, a bill relating to the permissible uses of sick leave and establishing a minimum sick leave benefit.

**READ.**

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. I just wanted to clarify, in case anyone was confused, about what happened in our committee. We had a study about an issue related to this and we weren't allowed to pass out legislation. Things changed enough that we felt we needed a Public Hearing. We are asking it to come back to our committee for a full Public Hearing and then we will proceed from there. Thank you.

On further motion by same Senator, the Joint Order was **PASSED**.

Sent down for concurrence.

---

**REPORTS OF COMMITTEES**

**House**

**Change of Committee**

The Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act Making Amendments to the Uniform Commercial Code Covering Provisions Dealing with Negotiable Instruments and Bank Deposits and Collections"

H.P. 1308 L.D. 1786

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

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

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

On motion by Senator **LAFOUNTAIN** of York, **REFERRED** to the Committee on **JUDICIARY**, in concurrence.

---

**Divided Report**

The Majority of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Protect Consumer Privacy Rights"

H.P. 509 L.D. 692

Reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-627)**.

Signed:

Senators:

BROMLEY of Cumberland  
HALL of Lincoln

Representatives:

SULLIVAN of Biddeford  
O'BRIEN of Lewiston  
DUPREY of Medway  
SMITH of Monmouth  
AUSTIN of Gray  
JACOBSEN of Waterboro  
RECTOR of Thomaston

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

Signed:

Representatives:

BERUBE of Lisbon  
ROGERS of Brewer

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-627)**.

Reports **READ**.

On motion by Senator **HALL** of Lincoln, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

**READ ONCE**.

Committee Amendment "B" (H-627) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

---

**Divided Report**

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act to Establish a Seamless Strategic Drug Abuse Model for Addressing Criminal Enforcement, Treatment, Education and Public Advocacy within Washington County"

H.P. 38 L.D. 31

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-624)**.

Signed:

Senators:

STRIMLING of Cumberland  
CARPENTER of York

Representatives:

BLANCHETTE of Bangor  
GERZOFKY of Brunswick  
LESSARD of Topsham

GROSE of Woolwich  
MILLS of Farmington  
SNOWE-MELLO of Poland  
MAIETTA of South Portland  
GREELEY of Levant

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

Signed:

Representative:

SYKES of Harrison

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-624)**.

Reports **READ**.

On motion by Senator **STRIMLING** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

**READ ONCE**.

Committee Amendment "A" (H-624) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

---

**Divided Report**

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Clarify the Freedom of Access Laws as They Pertain to the Penobscot Nation"

H.P. 1116 L.D. 1525

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

Signed:

Senators:

PENDLETON of Cumberland  
WOODCOCK of Franklin

Representatives:

NORBERT of Portland  
BULL of Freeport  
BENNETT of Caribou  
MILLS of Farmington  
SHERMAN of Hodgdon  
CARR of Lincoln  
DUPREY of Hampden  
BRYANT-DESCHENES of Turner

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-626)**.

Signed:

Senator:

CATHCART of Penobscot

Representatives:

SIMPSON of Auburn  
GERZOFISKY of Brunswick

(Representative LORING of the Penobscot Nation - of the House - supports the Minority **Ought To Pass as Amended** Report.)

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

Senator **PENDLETON** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** 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 NOT TO PASS** Report, in concurrence.

**Divided Report**

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Recognize the Regional Impact of Casino-style Gambling Facilities"

H.P. 916 L.D. 1242

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

Signed:

Senators:

GAGNON of Kennebec  
MAYO of Sagadahoc

Representatives:

CLARK of Millinocket  
PATRICK of Rumford  
BLANCHETTE of Bangor  
CANAVAN of Waterville  
JENNINGS of Leeds  
LANDRY of Sanford  
MOORE of Standish  
BROWN of South Berwick  
HOTHAM of Dixfield

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-630)**.

Signed:

Senator:

LEMONT of York

Representative:

GLYNN of South Portland

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.



Reports **READ**.

Senator **GAGNON** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** 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 NOT TO PASS** Report, in concurrence.

---

**SECOND READERS**

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

**House As Amended**

Bill "An Act Regarding the Presumption of Violations of the Hunting-on-Sunday Prohibition"

H.P. 316 L.D. 408  
(C "A" H-625)

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

---

Off Record Remarks

---

**ORDERS OF THE DAY**

**Unfinished Business**

The following matter in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (1/13/04) Assigned matter:

NOMINATION - John W. Libby of Waterville for appointment as the Adjutant General

Tabled - January 13, 2004, by Senator **GAGNON** of Kennebec

Pending - **CONSIDERATION**

(In Senate, January 13, 2004, Communication (S.C. 425) from the Committee on **LEGAL AND VETERANS AFFAIRS READ** and **ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **LEGAL AND VETERANS AFFAIRS** be overridden?"

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

---

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

---

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#217)**

YEAS: Senators: None

NAYS: Senators: BENNETT, BLAIS, BRENNAN, BRYANT, CARPENTER, CATHCART, DAMON, DAVIS, DOUGLASS, EDMONDS, GAGNON, GILMAN, HALL, KNEELAND, LAFOUNTAIN, MARTIN, MAYO, MITCHELL, NASS, PENDLETON, ROTUNDO, SAVAGE, SAWYER, SHOREY, STANLEY, STRIMLING, TREAT, TURNER,

WESTON, WOODCOCK, YOUNGBLOOD, THE PRESIDENT – BEVERLY C. DAGGETT

ABSENT: Senators: BROMLEY, LEMONT

EXCUSED: Senator: HATCH

No Senator having voted in the affirmative and 32 Senators having voted in the negative, with 2 Senators being absent and 1 Senator 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 **John W. Libby** of Waterville for appointment as the Adjutant General was **CONFIRMED**.

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

**THE PRESIDENT:** The Chair is pleased to recognize in the rear of the chamber John W. Libby. Would he please rise and accept the greetings of the Senate.

---

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

#### REPORTS OF COMMITTEES

##### Senate

##### Change of Committee

Senator DAMON for the Committee on **TRANSPORTATION** on Bill "An Act To Establish Harbor Master Standards and Course Requirements"

S.P. 612 L.D. 1680

Reported that the same be **REFERRED** to the Committee on **MARINE RESOURCES**.

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

On motion by Senator **DAMON** of Hancock, **REFERRED** to the Committee on **MARINE RESOURCES**.

Sent down for concurrence.

---

Senate at Ease.

Senate called to order by the President.

---

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

---

Off Record Remarks

---

On motion by Senator **TREAT** of Kennebec, **ADJOURNED**, to Thursday, January 15, 2004, at 10:00 in the morning.