

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

In Senate Chamber

Tuesday

February 3, 2004

In compliance with a proclamation of Governor **JOHN E. BALDACCI**, the Senators convened in the Senate Chamber at ten o'clock in the morning and were called to order by President **BEVERLY C. DAGGETT** of Kennebec County.

Prayer by Reverend Bruce Forbes, South Parish Congregational Church in Augusta.

REVEREND FORBES: Let us bow our heads. Dear God, we thank You for this day, allowing us to serve You and the citizens of Maine. We thank You that You have deemed us worthy enough for this responsibility. Give us the wisdom and the insight to carry out our duties well. Help us keep our focus on fairness and justice. Keep us in Your thoughts as we go about our day. We pray this with all glory to You, oh God. Amen.

Pledge of Allegiance led by Senator Betty Lou Mitchell of Penobscot County.

Off Record Remarks

S.C. 440

STATE OF MAINE

PROCLAMATION

WHEREAS, there exists in the State of Maine an extraordinary occasion arising out of the need to resolve many legislative matters pending at the time of the adjournment of the Second Legislative Session of the 121st Legislature of the State of Maine; and

WHEREAS, the public health, safety and welfare requires that the Legislature resolve these pending matters as soon as possible, and in any event prior to the date of the First Regular Session of the 122nd Legislature of the State of Maine, including but not limited to pending legislation and pending nominations of state board and commission members by the Governor requiring legislative confirmation;

NOW, THEREFORE, I, JOHN ELIAS BALDACCI, Governor of the State of Maine, by virtue of the constitutional power vested in me as Governor pursuant to Article V, Part 1, section 13 of the Constitution of the State of Maine, convene the Legislature of this State, hereby requesting the Senators and Representatives to assemble in their respective chambers at the Capitol in Augusta on Tuesday, February 3, 2004, at 10:00 in the morning, in order to receive communications, resolve pending legislation carried over from the Second Regular Session of the 121st Legislature and act upon pending nominations.

In testimony whereof, I have caused the Great Seal of the State to be hereunto Affixed GIVEN under my hand at Augusta this thirtieth day of January in the Year Two Thousand and Four.

S/JOHN E. BALDACCI

Governor

S/Dan A. Gwadosky

Secretary of State

READ and ORDERED PLACED ON FILE.

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

QUORUM CALL

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#236)

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

EXCUSED: Senator: HATCH

34 Senators having answered the Roll, the Chair declared a quorum present.

Out of order and under suspension of the Rules, on motion by Senator **TREAT** of Kennebec, the following Senate Order:

S.O. 36

ORDERED, that a message be sent to Governor John E. Baldacci, informing him that a quorum of Senators is assembled in the Senate Chamber for the consideration of such business as may come before the Senate.

READ and PASSED.

The Chair appointed the Senator from Kennebec, Senator **TREAT** to deliver the message to the Governor. The Sergeant-At-Arms escorted the Senator to the Governor's Office.

Subsequently, the Senator from Kennebec, Senator **TREAT** reported that she had delivered the message with which she was charged.

Out of order and under suspension of the Rules, on motion by Senator **GAGNON** of Kennebec, the following Senate Order:

S.O. 37

ORDERED, that a message be sent to the House of Representatives informing that Body that a quorum of Senators is present for the consideration of such business as may come before the Senate.

READ and **PASSED**.

The Chair appointed the Senator from Kennebec, Senator **GAGNON** to deliver the message to the House of Representatives. The Sergeant-At-Arms escorted the Senator to the House of Representatives.

Senate at Ease.

Senate called to order by the President.

Subsequently, the Senator from Kennebec, Senator **GAGNON** reported that he had delivered the message with which he was charged.

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Joint Order - Directing the Joint Standing Committee on Education and Cultural Affairs To Review the Feasibility of Establishing Blueprints for State-financed School Construction

H.P. 1357

In House, January 27, 2004, **PASSED AS AMENDED BY HOUSE AMENDMENT "A"**

(H-638).

In Senate, January 29, 2004, **READ** and **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Comes from the House, that Body **ADHERED**.

On motion by Senator **TREAT** of Kennebec, the Senate **ADHERED**.

House Papers

Bill "An Act To Provide for the 2004 and 2005 Allocations of the State Ceiling on Private Activity Bonds"
(EMERGENCY)

H.P. 1364 L.D. 1838

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.

Bill "An Act To Amend the Laws Governing Purchase of Military Time Served under the Maine State Retirement System"

H.P. 1360 L.D. 1836

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

On motion by Senator **EDMONDS** of Cumberland, **REFERRED** to the Committee on **LABOR** and ordered printed, in concurrence.

At this point a message was received from the House of Representatives, borne by Representative RICHARDSON of Brunswick, informing the Senate that a quorum of Representatives was assembled for the consideration of such business as may come before that Body.

**Pursuant to Resolve
Joint Standing Committee on Natural Resources**

The **Joint Standing Committee on Natural Resources**, pursuant to Resolve 2003, chapter 14 asked leave to report that the accompanying Bill "An Act Relating to the Consideration of the Cumulative Effects on Protected Natural Resources"

H.P. 1361 L.D. 1837

Be **REFERRED** to the Committee on **NATURAL RESOURCES** 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 **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218.

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

On motion by Senator **MARTIN** of Aroostook, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218, in concurrence.

COMMUNICATIONS

The Following Communication:

S.P. 686

STATE OF MAINE

121ST MAINE LEGISLATURE

January 30, 2004

Sen. Bruce S. Bryant

Senate Chair, Joint Standing Committee on

Agriculture, Conservation and Forestry

Rep. Linda Rogers McKee

House Chair, Joint Standing Committee on

Agriculture, Conservation and Forestry

121st Legislature

Augusta, ME 04333

Dear Senator Bryant and Representative McKee:

Please be advised that Governor John E. Baldacci has nominated James Tracy of Farmingdale for reappointment as a member of the Maine Harness Racing Commission.

Pursuant to Title 8 M.R.S.A. § 261-A, this nomination will require review by the Joint Standing Committee on Agriculture, Conservation and Forestry and confirmation by the Senate.

Sincerely,

S/Beverly C. Daggett

President of the Senate

S/Patrick Colwell

Speaker of the House

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

Sent down for concurrence.

The Following Communication:

S.P. 687

STATE OF MAINE

121ST MAINE LEGISLATURE

January 30, 2004

Sen. Bruce S. Bryant

Senate Chair, Joint Standing Committee on

Agriculture, Conservation and Forestry

Rep. Linda Rogers McKee

House Chair, Joint Standing Committee on

Agriculture, Conservation and Forestry

121st Legislature

Augusta, ME 04333

Dear Senator Bryant and Representative McKee:

Please be advised that Governor John E. Baldacci has nominated Anne Jordan of South Portland for appointment as a member of the Maine Harness Racing Commission.

Pursuant to Title 8 M.R.S.A. § 261-A, this nomination will require review by the Joint Standing Committee on Agriculture, Conservation and Forestry and confirmation by the Senate.

Sincerely,

S/Beverly C. Daggett

President of the Senate

S/Patrick Colwell

Speaker of the House

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

Sent down for concurrence.

The Following Communication:

H.P. 1362

STATE OF MAINE

HOUSE OF REPRESENTATIVES

SPEAKER'S OFFICE

AUGUSTA, MAINE 04333-0002

January 29, 2004

Honorable Millicent M. MacFarland

Clerk of the House

2 State House Station

Augusta, ME 04333

Dear Clerk MacFarland:

Pursuant to my authority under House Rule 201.1 I (a) I hereby rescind the appointment of Representative Raymond G. Pineau of Jay as a member of the Joint Standing Committee on Inland Fisheries and Wildlife.

Should you have any questions regarding this appointment please feel free to contact me.

Sincerely,

S/Patrick Colwell

Speaker of the House

Comes from the House, **READ** and **ORDERED PLACED ON FILE**.

READ and **ORDERED PLACED ON FILE**, in concurrence.

The Following Communication:

H.P. 1363

STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002

January 29, 2004

Honorable Millicent M. MacFarland

Clerk of the House

2 State House Station

Augusta, ME 04333

Dear Clerk MacFarland:

Pursuant to my authority under House Rule 201.1 I (a) I am pleased to appoint Representative Stanley A. Moody of Manchester to serve as a member of the Joint Standing Committee on Inland Fisheries and Wildlife.

Should you have any questions regarding this appointment please feel free to contact me.

Sincerely,

S/Patrick Colwell

Speaker of the House

Comes from the House, **READ** and **ORDERED PLACED ON FILE**.

READ and **ORDERED PLACED ON FILE**, in concurrence.

SENATE PAPERS

Bill "An Act To Remove the Designation of the Lake Christopher Wildlife Management Area as a Wildlife Management Area"

S.P. 685 L.D. 1842

Sponsored by Senator BRYANT of Oxford.

Cosponsored by Representative GAGNE-FRIEL of Buckfield and Senator: SAWYER of Penobscot, Representatives: GERZOFKY of Brunswick, GOODWIN of Pembroke, JACKSON of Fort Kent, McGLOCKLIN of Embden.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

On motion by Senator BRYANT of Oxford, **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE** and ordered printed.

Sent down for concurrence.

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

ORDERS

Joint Order

On motion by Senator **MARTIN** of Aroostook, the following Joint Order:

S.P. 684

ORDERED, the House concurring, that the Joint Standing Committee on Natural Resources report out, to the Senate, legislation to change the point system for clearing vegetation adjacent to protected natural resources.

READ and **PASSED**.

Ordered sent down forthwith for concurrence.

REPORTS OF COMMITTEES

House

Change of Committee

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act Regarding Wildlife Habitat Conservation"

H.P. 604 L.D. 827

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** and the Committee on **INLAND FISHERIES AND WILDLIFE**.

Report **READ** and **REJECTED**.

On motion by Senator **BRYANT** of Oxford, **REFERRED** to the Committee on **TAXATION** and the Committee on **INLAND FISHERIES AND WILDLIFE**, in concurrence.

Ought to Pass

The Committee on **JUDICIARY** on Bill "An Act To Amend the Uniform Federal Lien Registration Act"

H.P. 1278 L.D. 1756

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act To Increase Traffic Fines and Apportion a Part of the Increase to the Issuing Jurisdiction"

H.P. 788 L.D. 1070

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

Signed:

Senators:

DAMON of Hancock

SAVAGE of Knox

Representatives:

USHER of Westbrook

PARADIS of Frenchville

MARRACHÉ of Waterville

SAMPSON of Auburn

McKENNEY of Cumberland

COLLINS of Wells

McNEIL of Rockland

JODREY of Bethel

BROWNE of Vassalboro

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-646)**.

Signed:

Representative:

MARLEY of Portland

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

Reports **READ**.

On motion by Senator **DAMON** of Hancock, the Majority Report **ACCEPTED** and the Bill and accompanying papers **REFERRED** to the Committee on **JUDICIARY**, in concurrence.

Divided Report

The Majority of the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Require the Owner or Operator of a Casino To Improve or Replace Utilities and Infrastructure in the Vicinity of the Casino"

H.P. 876 L.D. 1201

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

Signed:

Senators:

HALL of Lincoln
BROMLEY of Cumberland

Representatives:

RINES of Wiscasset
FLETCHER of Winslow
LUNDEEN of Mars Hill
MOODY of Manchester
BLISS of South Portland
BERRY of Belmont
GOODWIN of Pembroke
RICHARDSON of Skowhegan

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-645)**.

Signed:

Representatives:

ADAMS of Portland
CRESSEY of Baldwin

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

Reports **READ**.

Senator **HALL** of Lincoln 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 To Promote the Production and Use of Fuels Derived from Agricultural and Forest Products"

H.P. 1089 L.D. 1492
(C "A" H-641)

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

Senate As Amended

Bill "An Act To Refine the Criteria for Issuing a Certificate of Need"

S.P. 82 L.D. 159
(C "A" S-363)

Bill "An Act To Provide Reciprocal Authority to New Hampshire Marine Patrol Officers To Investigate Potential Terrorist Activities in Maine Waters"

S.P. 621 L.D. 1689
(C "A" S-364)

Resolve, To Commission a Portrait of the Honorable George J. Mitchell To Hang in the State House

S.P. 658 L.D. 1725
(C "A" S-365)

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

Ordered sent down forthwith for concurrence.

All matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

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 (1/30/04) Assigned matter:

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Increase the Sale of Lottery Tickets To Benefit Conservation and Wildlife"

H.P. 441 L.D. 578

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-635)** (9 members)

Minority - **Ought Not to Pass** (4 members)

Tabled - January 30, 2004, by Senator **GAGNON** of Kennebec

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence

(In House, January 29, 2004, 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-635).**)

(In Senate, January 30, 2004, Reports **READ.**)

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

READ ONCE.

Committee Amendment "A" (H-635) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senate at Ease.

Senate called to order by the President.

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

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

Senator **MARTIN** of Aroostook was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator **TREAT** of Kennebec, **ADJOURNED**, to Wednesday, February 4, 2004, at 10:00 in the morning.