

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

In Senate Chamber
Wednesday
March 12, 2003

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

Prayer by Reverend Gregory Scott Vinson, Eliam Assembly of God in Bath.

REVEREND VINSON: Good morning. On behalf of the Faith Community in the City of Bath, we send you greetings. To my Senator, Art Mayo, I want to say thank you for the great privilege of being here. I've had the privilege of being pastor in the church I'm in for 10 1/2 years. I've been here many times. I love coming up here to see you, to greet you, and to pray for you. I wish I could take all of you back to my congregation because I have not found a greater group of people who are as friendly as you. Let us pray.

Dear gracious Father, we thank You so much for this morning. Thank You for all that You are doing within our land. Thank You for the leadership You have provided for this great state. I pray blessings upon everyone here. I pray You would bless them, their families, and all that they do every day that they live. I pray that You would give them wisdom and understanding as they lead this state through the years ahead. I pray that You would keep them, that You would walk with them, and You would meet them. I pray, this day, that in the decisions that are made, You would lead them. But most of all, I pray Your blessings upon them. Thank You for them, for the leadership they have provided, and for the leadership they will provide. I ask that, as this generation continues, that generations to come would see the leadership that is provided for this state. We thank them. I know I do. I ask that Your hand be with them. In Your son's name, Amen.

Doctor of the day, Ira Stockwell, D.O. of Westbrook.

Reading of the Journal of Tuesday, March 11, 2003.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act to Ensure that Child Labor Laws Apply to Public Sector Employers"
S.P. 20 L.D. 34

In Senate, February 18, 2003, **PASSED TO BE ENGROSSED.**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE
AMENDMENT "A" (H-11), in NON-CONCURRENCE.**

On motion by Senator **EDMONDS** of Cumberland, the Senate **RECEDED** and **CONCURRED.**

House Papers

Bill "An Act To Provide Incentives for Affordable Neighborhood Developments"
H.P. 802 L.D. 1084

Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** suggested and ordered printed.

Comes from the House, **REFERRED** to the Committee on **NATURAL RESOURCES**.

On motion by Senator **HALL** of Lincoln, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed, in concurrence.

Bill "An Act Regarding Energy Efficiency Standards"

H.P. 975 L.D. 1321

Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** suggested and ordered printed.

Comes from the House, **REFERRED** to the Committee on **UTILITIES AND ENERGY**.

On motion by Senator **HALL** of Lincoln, **REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed, in concurrence.

Bill "An Act To Fully Fund Local Education with Sales Tax Revenues"

H.P. 953 L.D. 1299

Committee on **EDUCATION AND CULTURAL AFFAIRS** suggested and ordered printed.

Comes from the House, **REFERRED** to the Committee on **TAXATION**.

Senator **BRENNAN** of Cumberland moved to **REFER** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**, in **NON-CONCURRENCE**. Subsequently, same Senator requested and received leave of the Senate to withdraw his motion to **REFER** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**, in **NON-CONCURRENCE**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending **REFERENCE**.

SENATE PAPERS

Bill "An Act To Make Minor Technical Changes to the Maine Biomedical Research Program"
S.P. 436 L.D. 1345

Sponsored by Senator **SHOREY** of Washington.

Cosponsored by Representative **RICHARDSON** of Brunswick and Senator: **BROMLEY** of Cumberland, Representative: **BERUBE** of Lisbon.

Submitted by the Department of Economic and Community Development pursuant to Joint Rule 204.

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

Sent down for concurrence.

Bill "An Act To Clarify the Authority of the Attorney General To Seek Restitution and To Require the Superintendent of Insurance To Investigate Certain Insurance Practices"

S.P. 438 L.D. 1347

Sponsored by Senator TREAT of Kennebec.

Cosponsored by Representative O'NEIL of Saco and Senators: BRENNAN of Cumberland, President DAGGETT of Kennebec, LaFOUNTAIN of York, MAYO of Sagadahoc, Representatives: DUDLEY of Portland, HUTTON of Bowdoinham, LEMOINE of Old Orchard Beach, MAILHOT of Lewiston.

On motion by Senator LAFOUNTAIN of York, **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed.

Sent down for concurrence.

Bill "An Act To Require Candidates Who Are Not Maine Clean Election Act Candidates To Report All Sources of Funding"

S.P. 439 L.D. 1348

Sponsored by Senator STRIMLING of Cumberland.

On motion by Senator GAGNON of Kennebec, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed.

Sent down for concurrence.

Bill "An Act To Protect Workers from Secondhand Smoke and To Promote Worker Safety"

S.P. 437 L.D. 1346

Sponsored by Senator TURNER of Cumberland.

Cosponsored by Representative DUPLESSIE of Westbrook and Senators: BRENNAN of Cumberland, MAYO of Sagadahoc, WESTON of Waldo, Representatives: KANE of Saco, LEWIN of Eliot, MILLS of Cornville, RICHARDSON of Brunswick, SIMPSON of Auburn.

Committee on **LEGAL AND VETERANS AFFAIRS** suggested and ordered printed.

On motion by Senator GAGNON of Kennebec, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES**.

Sent down for concurrence.

Bill "An Act To Recognize the Maine Rural Development Council"

S.P. 434 L.D. 1332

Sponsored by Senator DAMON of Hancock.

Cosponsored by Senator BENNETT of Oxford.

On motion by Senator ROTUNDO of Androscoggin, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed.

Sent down for concurrence.

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Provide Property Tax Relief for Maine Seniors

S.P. 432 L.D. 1330

Sponsored by Senator BLAIS of Kennebec.

Cosponsored by Representative CAMPBELL of Newfield and Senator: GILMAN of Cumberland, Representatives: JACKSON of Fort Kent, TREADWELL of Carmel.

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Allow Real Estate To Be Valued Differently Based on the Residence of the Owner

S.P. 433 L.D. 1331

Sponsored by Senator TURNER of Cumberland.

Cosponsored by Senators: NASS of York, WOODCOCK of Franklin, Representative: BRUNO of Raymond.

Bill "An Act To Allow Municipalities To Provide Property Tax Relief through a Local Option Sales Tax"

S.P. 435 L.D. 1333

Sponsored by Senator STRIMLING of Cumberland.

Cosponsored by Representative LEMOINE of Old Orchard Beach and Representatives: NORBERT of Portland, PERRY of Bangor.

On motion by Senator **STANLEY** of Penobscot, **REFERRED** to the Committee on **TAXATION** and ordered printed.

Sent down for concurrence.

Resolve, To Rename the Patty Hill Road in Medford the Clyde Hichborn Road

S.P. 431 L.D. 1329

Sponsored by Senator MARTIN of Aroostook.

Under suspension of the rules, cosponsored by Representative DUPREY of Medway and Senators: BENNETT of Oxford, CATHCART of Penobscot, President DAGGETT of Kennebec, HATCH of Somerset, PENDLETON of Cumberland, STANLEY of Penobscot, TREAT of Kennebec, Representatives: HATCH of Skowhegan, USHER of Westbrook.

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

On motion by Senator **HATCH** of Somerset, **REFERRED** to the Committee on **TRANSPORTATION** and ordered printed.

Sent down for concurrence.

SECOND READERS

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

House

Bill "An Act To Amend the Maine Juvenile Code as Recommended by the Criminal Law Advisory Commission"

H.P. 182 L.D. 223

Bill "An Act to Amend the Maine Bail Code as Recommended by the Criminal Law Advisory Commission"

H.P. 183 L.D. 224

Bill "An Act to Amend the Energy Resources Council Membership"

H.P. 193 L.D. 238

Bill "An Act To Amend the Law Regarding Security Officer Qualifications"

H.P. 295 L.D. 375

Resolve, To Name the Washington County Portion of US Rt. 9 the Tony Tammaro Memorial Highway

H.P. 371 L.D. 482

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

ENACTORS

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

Acts

An Act to Ensure Full Disclosure of the Source of Water Sold in Containers
H.P. 28 L.D. 21

An Act to Repeal the Mandate to Perambulate the Municipal Boundary Lines when there is No
Boundary Dispute
H.P. 74 L.D. 66

An Act To Amend the Charter of the Eastport Port Authority
H.P. 95 L.D. 86

PASSED TO BE ENACTED and having been signed by the President were presented by the
Secretary to the Governor for his approval.

ORDERS OF THE DAY

Unfinished Business

The following matters 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 (3/11/03) Assigned matter:

Bill "An Act To Prohibit Unethical Drug Marketing Practices"
H.P. 930 L.D. 1256

Tabled - March 11, 2003, by Senator **BROMLEY** of Cumberland

Pending - **REFERENCE**

(In House, March 6, 2003, **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 **HEALTH
AND HUMAN SERVICES** and ordered printed, in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled Unassigned matter:

Bill "An Act To Abolish the State Planning Office"
H.P. 785 L.D. 1067

Tabled - March 5, 2003, by Senator **MARTIN** of Aroostook

Pending - motion by Senator **HALL** of Lincoln to **REFER** to the Committee on **STATE AND
LOCAL GOVERNMENT**, in concurrence

(Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** suggested and ordered printed.)

(In House, March 4, 2003, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT**.)

Senator **HALL** of Lincoln requested and received leave of the Senate to withdraw his motion to **REFER** to the Committee on **STATE AND LOCAL GOVERNMENT**, in concurrence.

On further motion by same Senator, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed, in **NON-CONCURRENCE**.

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.

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

PAPERS FROM THE HOUSE

House Paper

Resolve, Directing the Department of Human Services To Adopt Rules To Reduce Regulatory Burdens on Home Health Agencies

H.P. 987 L.D. 1341

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.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act To Protect Public School Departments, School Committees and Superintendents from Certain Suits and Claims"

H.P. 980 L.D. 1335

Bill "An Act To Establish a Right of Entry for Surveyors Performing Surveying Services"

H.P. 988 L.D. 1342

Come from the House, **REFERRED** to the Committee on **JUDICIARY** and ordered printed.

On motion by Senator **PENDLETON** of Cumberland, **REFERRED** to the Committee on **JUDICIARY** 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

Resolve, To Create the Task Force To Study Parity and Portability of Retirement Benefits for State Law Enforcement Officers, Municipal Law Enforcement Officers and Firefighters (EMERGENCY)
H.P. 989 L.D. 1343

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.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Strengthen the Governmental Ethics Laws"
H.P. 981 L.D. 1336

Bill "An Act To Amend the Laws Governing Campaign Finance"
H.P. 984 L.D. 1339

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

On motion by Senator **GAGNON** of Kennebec, **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:

PAPERS FROM THE HOUSE

House Papers

Bill "An Act To Stabilize the Maine Dairy Industry, Protect Consumers against Price Gouging on Milk and Eliminate the BETR/TIF Double Dip"
H.P. 982 L.D. 1337

Bill "An Act To Reform the Tax Laws"
H.P. 983 L.D. 1338

Come from the House, **REFERRED** to the Committee on **TAXATION** and ordered printed.

On motion by Senator **STANLEY** of Penobscot, **REFERRED** to the Committee on **TAXATION** 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 Require That Replacement Automobile Lights Conform to Federal Standards"

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

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

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (3/11/03) Assigned matter:

SENATE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Clarify That Possession of More Than 1 1/4 Ounces of Marijuana is a Crime"
S.P. 68 L.D. 145

Majority - **Ought to Pass** (10 members)

Minority - **Ought Not to Pass** (3 members)

Tabled - March 11, 2003, by Senator **STRIMLING** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Minority **Ought Not to Pass** Report

(In Senate, March 11, 2003, Reports **READ**.)

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Carpenter.

Senator **CARPENTER:** Thank you, Madame President, women and men of the Maine Senate. If you accept Ought Not to Pass, that would leave the law as is, which reads, 'possession of a usable amount of marijuana.' Can you define 'usable' if you're attempting to arrest someone? In your own mind what is 'usable'? Maybe some people here have more experience with marijuana than I do, but I wouldn't know what a usable amount of marijuana is. All the bill asks is to have inserted in the bill a weight equal to or less than 1 1/4 ounces. That makes it specific. If you are a law officer, you know that, if that is the case. You can use that in a civil violation of which a forfeiture of not less than \$200 or more than \$400 be adjudged against them. Actually 1 1/4 ounces of marijuana is approximately a sandwich bag size. That full of usable, which is dried marijuana or leaves, not stems, not wood, is what it would be. When the vote is taken, I certainly wish you would vote with the majority, which was quite overwhelming, that this be inserted. When the vote is taken, I'd like a roll call. Thank you.

On motion by Senator **CARPENTER** of York, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **STRIMLING:** Thank you, Madame President. I'm not sure if I have more experience with marijuana than the fine Senator from York, Senator Carpenter, but I will say that currently the law states 'a usable amount' and allows the jury to make a decision about whether or not what the person had was a usable amount. Those of us who voted Ought Not to Pass on this bill felt that it should remain in the hands of the jury to decide.

Our courts, our prisons, and the people on probation are just growing expeditiously every year; 17% more people in prison over the last two years. We think it's important that juries have the tools they need to make a decision about whether somebody should be found guilty of this crime. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Strimling to Accept the Minority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#25)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

ABSENT: Senator: SHOREY

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **STRIMLING** of Cumberland to **ACCEPT** the Minority **Ought Not to Pass** Report, **PREVAILED**.

Sent down for concurrence.

Off Record Remarks

Senator **MAYO** of Sagadahoc was granted unanimous consent to address the Senate off the Record.

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

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

Senator **BRYANT** of Oxford was granted unanimous consent to address the Senate off the Record.

On motion by Senator **TREAT** of Kennebec, **ADJOURNED** to Thursday, March 13, 2003, at 10:00 in the morning.