

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

In Senate Chamber
Tuesday
February 5, 2008

Senate called to order by President Beth Edmonds of
Cumberland County.

Prayer by Reverend Peter Panagore from First Radio Parish
Church of America.

REVEREND PANAGORE: Good morning. Let us pray. Hey
God, this is for Your people who satisfy one side and alienate the
other; stand rigidly and snap like a spruce in a gale, retractable,
regrettable, or stand fluidly and flex like a birch in a gale,
collaborative, beneficial. Solutions through compromise are
inclusive of all Your people; satisfying fully none but bi-partisan
and fruitful. Bless these leadership women and bless these
leadership men with an honorable wisdom that reaches between
the aisles with open hands and open minds, with plainly spoken
strong thoughts creating new ideas forged from opposing ideas.
Banish rancor. Banish ideology. Banish sound bites. Banish
diminishing labels. Stand for Your people. Stand with Your
people. Stand by Your people, the grand majority of us who
stand in the wide wide middle. It's time for true change, Lord. It's
time for inspiration and time for hope. It's time for tough choices
and true solutions, not broken on the backs of the poor nor picked
from the pockets of the rich. It's time to take and give on both
sides, with gains for all for a new Maine, for a new day, for a
renewed America. Bless this day, God of all. Bless this chamber,
God of truth. Lead us in Your middle way. Amen.

Pledge of Allegiance led by Senator Dana L. Dow of Lincoln
County.

Reading of the Journal of Thursday, January 31, 2008.

Doctor of the day, Jeffrey Young, MD of Falmouth.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by
Senator **MITCHELL** of Kennebec, the following Senate Order:
S.O. 22

Ordered, that a message be sent to the House of Representatives
proposing a Convention of the two branches of the Legislature be
held at 11:00 this morning in the Hall of the House for the purpose
of extending to the Honorable Leigh I. Saufley, Chief Justice of
the Supreme Judicial Court, the Justices of the Supreme Judicial
Court, and members of the Judiciary, an invitation to make such
communication as pleases the Chief Justice.

READ and PASSED.

The Chair appointed the Senator from Kennebec, Senator
MITCHELL to deliver the message to the House of
Representatives. Chamber staff escorted the Senator to the
House of Representatives.

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

COMMUNICATIONS

The Following Communication: S.C. 615

**STATE OF MAINE
SUPREME JUDICIAL COURT
PORTLAND, MAINE 04112**

January 22, 2008

The Honorable Beth G. Edmonds
President of the Senate
3 State House Station
Augusta, ME 04333-0003

The Honorable Glenn Cummings
Speaker of the House
2 State House Station
Augusta, ME 04333-0002

Dear President Edmonds and Speaker Cummings:

I am pleased to accept your invitation to address a Joint Session
of the 123rd Maine Legislature on Tuesday, February 5, 2008, at
11:00 A.M. I appreciate the courtesy of the Legislative Branch of
government in permitting me to address the cause of justice in
Maine.

I look forward to seeing you on February 5, 2008.

Sincerely,

S/Leigh I. Saufley
Chief Justice

READ and ORDERED PLACED ON FILE.

SENATE PAPERS

Bill "An Act To Provide for the 2008 and 2009 Allocations of the State Ceiling on Private Activity Bonds" (EMERGENCY)
S.P. 843 L.D. 2185

Sponsored by Senator BROMLEY of Cumberland.
(GOVERNOR'S BILL)

Cosponsored by Representative SMITH of Monmouth and Senators: COURTNEY of York, SCHNEIDER of Penobscot, Representatives: AUSTIN of Gray, BEAUDETTE of Biddeford, BEAULIEU of Auburn, MacDONALD of Boothbay, RECTOR of Thomaston, SAMSON of Auburn.

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

Sent down for concurrence.

Senate at Ease.

Senate called to order by the President.

At this point a message was received from the House of Representatives, borne by Representative PINGREE of North Haven informing the Senate that the House concurred with the proposition for a Convention of the two branches of the Legislature to be held in the Hall of the House at 11:00 in the morning for the purpose of extending to the Honorable Leigh I. Saufley, Chief Justice of the Supreme Judicial Court, the Justices of the Supreme Judicial Court, and members of the Judiciary, an invitation to make such communication as pleases the Chief Justice.

Off Record Remarks

At this point, the Senate retired to the Hall of the House, where a Joint Convention was formed.

After Convention

In Senate Chamber

Senate called to order by the President

ORDERS

Joint Orders

On motion by Senator SMITH of Piscataquis, the following Joint Order:

S.P. 842

ORDERED, the House concurring, that the Joint Standing Committee on Health and Human Services shall report out, to the Senate, a bill regarding parental consent to dispense prescription drugs to children.

READ.

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Smith.

Senator **SMITH:** Thank you, Madame President. I'll be very brief this morning. I want to say just a few words, and I hope they are reassuring words, about this matter. Some weeks ago I attempted to introduce a bill that I had been working on for some time that was, basically, shot down by the Legislative Council. I wanted to bring this matter to the Senate. This bill is not before this Body. I intend to convey it informally to the committee as a beginning point of its work if this Joint Order makes it through both Bodies.

Let me tell you something at the very outset, in my view this is not about abortion. It is not about sex education. What it is about is the parental/child relationship and it is about parental consent. Maine, for many many years, has honored this historic relationship of parent and child. It is from that foundation that I approach this matter. I have spent a good deal of my adult life trying to get adults involved in the lives of their children, first as a probate judge for almost three decades and then as a member of a board of directors of one of our leading secondary educational institutions in this state where we have always tried to involve parents in the lives of their children. We have a situation here in Maine where an instrumentality of the State has attempted to intercede its will between very willing parents who wish to accept responsibility for their children. It's a situation that 80% or 90% of the people of this state feel needs to at least be discussed. I am not sure where the committee will go with this if this reaches the committee. I will certainly pledge to the committee that I will work with the committee to properly address this and I hope that this Body will take the first step towards that discussion. Thank you very much.

Senator **MARTIN** of Aroostook moved the Joint Order be **COMMITTED** to the Committee on **HEALTH AND HUMAN SERVICES**.

On motion by Senator **WESTON** of Waldo, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **BRANNIGAN:** Thank you, Madame President. I will be voting against this motion. First of all, our committee is chuck full. I mean that sincerely. With the budget requirements that we have and the number of bills that we have, I'll be glad to show you the schedule as we approach the 7th of March, we are hearing four, five and six bills a day and working them. I am fine with the Senator from Piscataquis, Senator Smith, and his effort, but everybody in here can put in a Joint Order and plug our committee up until it's more than chuck full. I have no desire to have any more bills in our committee. This would be one that would take some time.

Secondly, I believe this issue is local control and in Portland, where I live and where this might be the genesis of this, parents have total control over whether or not their children attend this clinic that some people are upset about.

Please, I say to leadership, don't let any more bills come to our committee. I say to the people of this Body, don't saddle us with any more work. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you, Madame President. Just as a point of order, the pending motion is to try to send the proposed Joint Order to the committee to be discussed about whether there should be a bill and then have them report back.

THE PRESIDENT: That is the motion before the Body.

Senator **MILLS:** Thank you, Madame President. I think I understand it.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Raye.

Senator **RAYE:** Thank you, Madame President. I rise to say that I share some of the concerns of my colleague, the Senator from Cumberland, Senator Brannigan, about the heavy workload in our committee. I do believe that this is an issue worthy of our consideration. If I understand the Parliamentary Procedure correctly, if we support the Joint Order and wish to pass it so that the committee is authorized to report out a bill, we would oppose the pending motion because the pending motion would set up another step in the process. As somebody who believes the committee should take a look at this and report out some kind of legislation with respect to this, I would urge my colleagues to oppose the pending motion and support the Joint Order.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Aroostook, Senator Martin to Commit the Joint Order to the Committee on Health and Human Services. A Roll Call has been ordered. Is the Senate ready for the question?

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

ROLL CALL (#262)

YEAS: Senators: BRYANT, MARRACHE, MITCHELL, PERRY, SCHNEIDER

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, COURTNEY, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, MARTIN, MCCORMICK, MILLS, NASS, NUTTING, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING,

SULLIVAN, TURNER, WESTON, THE PRESIDENT
- BETH G. EDMONDS

EXCUSED: Senator: DAMON

5 Senators having voted in the affirmative and 29 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **MARTIN** of Aroostook to **COMMIT** the Joint Order to the Committee on **HEALTH AND HUMAN SERVICES**, **FAILED**.

On motion by Senator **WESTON** of Waldo, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#263)

YEAS: Senators: BENOIT, BOWMAN, BRYANT, COURTNEY, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, SULLIVAN, TURNER, WESTON

NAYS: Senators: BARTLETT, BRANNIGAN, BROMLEY, STRIMLING, THE PRESIDENT - BETH G. EDMONDS

EXCUSED: Senator: DAMON

29 Senators having voted in the affirmative and 5 Senators having voted in the negative, with 1 Senator being excused, **PASSED**.

Sent down for concurrence.

REPORTS OF COMMITTEES

House

Change of Committee

The Committee on **TAXATION** on Bill "An Act To Prevent and Treat Cancer in Maine by Providing a Source of Funding for a Comprehensive Cancer Prevention Program" H.P. 1484 L.D. 2098

Reported that the same be **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES**.

Report **READ**.

On motion by Senator **ROTUNDO** of Androscoggin, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF REPORT**, in concurrence.

Pursuant to Resolve

The Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Implement the Recommendations of the Commission To Study the Promotion, Expansion and Regulation of the Harness Racing Industry"
H.P. 1554 L.D. 2184

Reported that the same be **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**, pursuant to Resolve 2007, chapter 128, section 8.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**.

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

Bill and accompanying papers **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**, in concurrence.

Ought to Pass

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, To Extend the Deadline To Adopt a Rule by the Department of Health and Human Services Regarding Smoking in the Workplace (EMERGENCY)
H.P. 1398 L.D. 2014

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senate

Ought to Pass As Amended

Senator **SMITH** for the Committee on **UTILITIES AND ENERGY** on Bill "An Act Regarding Certain Positions at the Public Utilities Commission"
S.P. 749 L.D. 1955

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-407)**.

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

READ ONCE.

Committee Amendment "A" (S-407) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Authorize Arbitration of Property Tax Valuation Disputes"
S.P. 555 L.D. 1584

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

Signed:

Senators:
PERRY of Penobscot
STRIMLING of Cumberland
NASS of York

Representatives:
PIOTTI of Unity
RAND of Portland
CLARK of Millinocket
WOODBURY of Yarmouth
WATSON of Bath
CHASE of Wells
PILON of Saco
LANSLEY of Sabattus

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-408)**.

Signed:

Representative:
KNIGHT of Livermore Falls

Reports **READ**.

On motion by Senator **PERRY** of Penobscot, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

SECOND READERS

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

House

Bill "An Act To Create Consistency in the Authority of the Public Utilities Commission To Provide Tariff Exemptions"
H.P. 1444 L.D. 2060

Bill "An Act To Amend the Charter of the Norway Water District" (EMERGENCY)
H.P. 1460 L.D. 2076

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

Senate

Bill "An Act To Create the Starboard Water District" (EMERGENCY)
S.P. 807 L.D. 2117

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

Sent down for concurrence.

ENACTORS

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

Emergency Resolve

Resolve, To Continue the Work of Preventing the Onset of Severe Mental Illness in Youth
H.P. 1092 L.D. 1567
(C "B" H-652)

On motion by Senator **ROTUNDO** of Androscoggin, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in concurrence.

Acts

An Act Regarding Campaign Finance Disclosure by Political Action Committees
S.P. 482 L.D. 1394
(C "A" S-402)

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

An Act To Exempt from the Sales Tax Water Used in Agricultural Production
H.P. 812 L.D. 1094
(C "A" H-654)

On motion by Senator **ROTUNDO** of Androscoggin, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

An Act Relating to Death Benefits for Certain Law Enforcement Officers
S.P. 577 L.D. 1672
(C "B" S-394)

On motion by Senator **ROTUNDO** of Androscoggin, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

An Act To Improve the Method of Taxing Natural Gas for Highway Use
H.P. 409 L.D. 531
(C "A" H-653)

On motion by Senator **DIAMOND** of Cumberland, placed on the **SPECIAL HIGHWAY TABLE**, pending **ENACTMENT**, in concurrence.

Resolves

Resolve, To Review the Law Governing Municipal Service Charges for Tax-exempt Property
H.P. 996 L.D. 1413
(C "A" H-655)

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

Resolve, To Direct a Review of Issues Concerning the Maine Tree Growth Tax Law
H.P. 421 L.D. 543
(C "A" H-656)

On motion by Senator **MARTIN** of Aroostook, **TABLED** until Later in Today's Session, pending **FINAL PASSAGE**, 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 Regarding the Operations of the Greater Portland Public Development Commission"

H.P. 1556 L.D. 2186

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

House Paper

Bill "An Act To Allow Limited Charitable Solicitations by Law Enforcement Associations"

H.P. 1557 L.D. 2187

Comes from the House, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed.

On motion by Senator **DIAMOND** of Cumberland, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** 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 Protect Homeowners from Equity Stripping during Foreclosure"

H.P. 1559 L.D. 2189

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

On motion by Senator **SULLIVAN** of York, **REFERRED** to the Committee on **INSURANCE AND FINANCIAL 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 Paper

Bill "An Act To Amend the Municipal Boundary between the Town of Old Orchard Beach and the City of Saco"

H.P. 1558 L.D. 2188

Comes from the House, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed.

On motion by Senator **SCHNEIDER** of Penobscot, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** 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 Increase Access to Dental Care"

H.P. 1562 L.D. 2192

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

On motion by Senator **PERRY** 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

Joint Resolution

The following Joint Resolution:

H.P. 1563

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES, THE UNITED STATES CONGRESS AND THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS TO ENSURE FUNDING FOR VETERANS' HEALTH CARE

WE, your Memorialists, the Members of the One Hundred and Twenty-third Legislature of the State of Maine now assembled in the Second Regular Session, most respectfully present and petition the President of the United States, the United States Congress and the United States Department of Veterans Affairs as follows:

WHEREAS, the United States Department of Veterans Affairs provides medical care for all veterans of the United States Armed Forces; and

WHEREAS, the funding for this health care is passed each year by the United States Congress as part of the discretionary budget; and

WHEREAS, this health care is seriously underfunded; and

WHEREAS, this serious and now chronic shortfall affects the veterans' access to quality medical care services; and

WHEREAS, the United States Department of Veterans Affairs and our Nation have a duty to serve our veterans and have entered into a contract, absolute and irrevocable, to provide them with proper health care; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that full funding for health care for veterans of the United States Armed Forces be passed and that all parties involved do their utmost to see that those who served their Nation are given the health care they deserve; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable George W. Bush, President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, to the Honorable James B. Peake, Secretary of Veterans Affairs, and to each Member of the Maine Congressional Delegation.

Comes from the House, **READ** and **ADOPTED**.

READ and **ADOPTED**, in concurrence.

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order:

H.P. 1555

ORDERED, the Senate concurring, that the Joint Standing Committee on Agriculture, Conservation and Forestry shall report out, to the House, a bill supporting agricultural businesses.

Comes from the House, **READ** and **PASSED**.

READ.

Senator **NUTTING** of Androscoggin moved to **REFER** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**, in **NON-CONCURRENCE**.

Same Senator requested and received leave of the Senate to withdraw his motion to **REFER** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**, in **NON-CONCURRENCE**.

PASSED, in concurrence.

Senate at Ease.

Senate called to order by the President.

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 (1/31/08) Assigned matter:

Bill "An Act To Promote Residential and Commercial Energy Conservation"

S.P. 841 L.D. 2179

Tabled - January 31, 2008, by Senator **BARTLETT** of Cumberland

Pending - **REFERENCE**

(Committee on **UTILITIES AND ENERGY** suggested and ordered printed.)

On motion by Senator **BARTLETT** of Cumberland, **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**.

Sent down for concurrence.

Off Record Remarks

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

On motion by Senator **MITCHELL** of Kennebec, **ADJOURNED** to Wednesday, February 6, 2008, at 10:00 in the morning.