

# MAINE STATE LEGISLATURE

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# LEGISLATIVE RECORD

OF THE

**One Hundred And Seventeenth Legislature**

OF THE

**State Of Maine**

**VOLUME VI**

**SECOND REGULAR SESSION**

**House of Representatives**

January 3, 1996 to April 3, 1996

**Senate**

January 3, 1996 to March 13, 1996

Hermon) (Cosponsored by Representative TUTTLE of Sanford and Representatives: BERRY of Livermore, CLARK of Millinocket, CROSS of Dover-Foxcroft, HICHBORN of Lagrange, POVICH of Ellsworth, STROUT of Corinth, Senators: CIANCHETTE of Somerset, FERGUSON of Oxford) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Providing for Further Review of Rules" (H.P. 1188) (L.D. 1629)

Signed:  
Senators: MILLS of Somerset  
PENDEXTER of Cumberland  
FAIRCLOTH of Penobscot  
Representatives: TREAT of Gardiner  
LEMKE of Westbrook  
JONES of Bar Harbor  
LaFOUNTAIN of Biddeford  
WATSON of Farmingdale  
PLOWMAN of Hampden  
HARTNETT of Freeport  
MADORE of Augusta  
NASS of Acton

**Labor**

Bill "Act to Exclude Services Provided by Direct Sellers from the Definition of Employment for Purposes of Unemployment Compensation" (H.P. 1320) (L.D. 1807) (Presented by Representative JOY of Crystal) (Cosponsored by Senator BEGLEY of Lincoln and Representatives: HATCH of Skowhegan, STEDMAN of Hartland, TUTTLE of Sanford) (Governor's Bill)

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

By unanimous consent, L.D. 1808 and L.D. 1807, having been acted upon were ordered sent forthwith.

Signed:  
Representative: RICHARDSON of Portland  
Was read.

On motion of Representative TREAT of Gardiner, the Majority "Ought to Pass" as amended Report was accepted.

**ORDERS**

On motion of Representative HICHBORN of Lagrange, the following Order: (H.O. 43)

ORDERED, that Representative Elizabeth H. Mitchell of Vassalboro be excused February 8 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Hugh A. Morrison of Bangor be excused February 20 to 22 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Theodore M. Poirier of Saco be excused February 20 to 22 for legislative business.

Was read and passed.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Richardson.

Representative RICHARDSON: Mr. Speaker, Men and Women of the House: When this Legislature and the Judiciary Committee sent this very serious issue to the task force, I had absolutely no idea how such a task force could produce a compromise in such a hard felt opinion on both sides of the issue. It was a fundamental issue. That task force would have to be Solomon himself to craft a compromise in that area. Although I am on the "Ought Not to Pass" Report on this, I say with a lot of admiration and deep respect that they crafted such a compromise. The compromise is brilliant and it is before you today. Like Solomon, they took this issue and they worked it and they came forward with a compromise that those who support it can support it in very good conscience, no matter what the point of view.

**REPORTS OF COMMITTEES**

**Refer to the Committee on Taxation**

Representative DEXTER from the Committee on Natural Resources on Bill "An Act to Support Abatement of Uncontrolled Tire Stockpiles" (H.P. 1298) (L.D. 1781) reporting that it be referred to the Committee on Taxation.

Report was read and accepted and the Bill referred to the Committee on Taxation and sent up for concurrence. Ordered sent forthwith.

I want to place on the record though, one question or one comment. It is this, in my wallet I have a dollar bill. That dollar bill is clearly mine. It is my property. No one would question that. I hold that dollar bill, though subject to rules that this body adopts in laws. I hold it subject to a trust that the community has. Whatever our property is, we hold it in some small sense in trust from the community. If the dollar bill is seized from me unfairly or unreasonably or is modified in some dramatic way, I have adequate redress. It is guaranteed in our constitution. It is one of our important and fundamental rights. It is my dollar bill, but it is mine in trust. That is a constitutional right. It is on a parity with other constitutional rights. The freedom of speech, which we are engaging in now and many others, they are also held in some sense in trust of the community. The freedom of speech does not allow me to say, "fire," in a crowded theater.

**Ought to Pass as Amended**

Representative DAGGETT from the Committee on State and Local Government on Resolve, Authorizing the Sale by the State of a Certain Parcel of Land to Joseph Squeglia (H.P. 1254) (L.D. 1723) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-717)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-717) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, February 27, 1996.

**Divided Report**

Majority Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-711) on Bill "An Act to Implement the Recommendations of the Study Commission on Property Rights and the Public Health, Safety and Welfare Establishing a Land Use Mediation Program and

The compromise, like Solomon, was not a cutting of the baby in half arbitrarily. It was an awe inspiring surgical separation. What I would suggest to you is that it raises one first amendment right a bit above the others. There are two provisions which are encompassed in the title before you under (6-3) in our calendar. Two provisions of a different way of looking at rights. The Attorney General will

review mediation for our local communities and eminently reasonable, but within my view have in some sense raised one of our constitutional rights just a bit above the other.

For myself, I prefer the parity of constitutional rights and the notion of some sense of trust in community to the surgical precision of Solomon. The surgical precision of Solomon has serious consequences for the baby. I tend to prefer our constitution.

The Bill was read once. Committee Amendment "A" (H-711) was read by the Clerk and adopted. The Bill was assigned for second reading Tuesday, February 27, 1996.

**Divided Report**

Majority Report of the Committee on Criminal Justice reporting "Ought to Pass" as amended by Committee Amendment "A" (H-712) on Bill "An Act to Include Sexual Contact in the Definition of Prostitution" (H.P. 1216) (L.D. 1666)

Signed:

Senators:

BENOIT of Franklin  
HALL of Piscataquis  
BUNKER of Kossuth  
Township  
GOOLEY of Farmington  
PEAVEY of Woolwich  
MCALEVEY of Waterboro  
CLARK of Millinocket  
CLUKEY of Houlton  
THOMPSON of Naples  
WHEELER of Bridgewater  
REED of Dexter

Representatives:

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Signed:

Senator:

O'DEA of Penobscot

Representative:

JOHNSON of South Portland

Was read.

Representative CLARK of Millinocket moved that the House accept the Majority "Ought to Pass" as amended Report.

On further motion of the same Representative, tabled pending his motion to accept the Majority "Ought to Pass" as amended Report and specially assigned for Tuesday, February 27, 1996.

**CONSENT CALENDAR**

**First Day**

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(S.P. 651) (L.D. 1703) Bill "An Act to Confirm That Nonprofit Health Care Providers May Achieve Cost Savings on Professional and General Liability Coverage" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (S-425)

(S.P. 659) (L.D. 1719) Bill "An Act to Correct Omissions in the Productivity Realization Task Force Legislation Relating to the State Soil and Water Conservation Commission and the Animal Welfare Board" Committee on Agriculture, Conservation and Forestry reporting "Ought to Pass" as amended by Committee Amendment "A" (S-426)

(H.P. 1275) (L.D. 1751) Resolve, to Authorize the Exchange of a Parcel of Land Owned by the State with

One Owned by Luke Bolduc Committee on State and Local Government reporting "Ought to Pass"

(H.P. 1200) (L.D. 1650) Bill "An Act Enabling the Maine Employers' Mutual Insurance Company to Better Serve the Needs of Small Business" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-719)

(H.P. 1215) (L.D. 1665) Bill "An Act to Amend the Maine Insurance Code with Respect to Domestic Violence" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-720)

(H.P. 1231) (L.D. 1684) Bill "An Act to Consolidate Insurer Billing Procedures and to Streamline the Licensing Process for Reinsurance Intermediaries" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-718)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, February 27, 1996 under the listing of Second Day.

**CONSENT CALENDAR**

**Second Day**

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the Second Day:

(H.P. 1205) (L.D. 1655) Bill "An Act to Conform the Maine Tax Laws for 1995 with the United States Internal Revenue Code" (EMERGENCY)

(H.P. 1263) (L.D. 1738) Bill "An Act to Require Prisoners to Pay Their Fair Share of Victim Restitution" (Governor's Bill)

(H.P. 1187) (L.D. 1628) RESOLUTION, Proposing an Amendment to the Constitution of Maine Regarding Municipal Certification of Direct Initiative Petitions (C. "A" H-714)

(H.P. 1196) (L.D. 1646) Bill "An Act to Establish the Freeport Towne Square Mental Retardation Facility" (C. "A" H-709)

(H.P. 1225) (L.D. 1678) Resolve, to Authorize the Maine Technical College System to Transfer Interests in Real Property (C. "A" H-710)

No objections having been noted at the end of the Second Legislative Day, the House Papers were Passed to be Engrossed or Passed to be Engrossed as Amended and sent up for concurrence.

**BILLS IN THE SECOND READING**

**As Amended**

Bill "An Act to Exempt from the Sales Tax Automobile Equipment Necessary for Paraplegics or People Who are Confined to Wheelchairs" (H.P. 540) (L.D. 736) (C. "B" H-705)

Bill "An Act Concerning Preference to Maine Workers and Contractors" (S.P. 341) (L.D. 946) (C. "A" S-418)

Resolve, to Create an Advisory Committee to Assist in the Funding of State Employee Workers' Compensation Claims (S.P. 379) (L.D. 1056) (C. "A" S-420)

Bill "An Act to Exempt Goods Sold by Scouting Organizations from the Sales Tax" (H.P. 776) (L.D. 1073) (C. "B" H-706)

Bill "An Act to Enhance Amusement Ride Safety" (H.P. 1256) (L.D. 1728) (C. "A" H-713)