

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

introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Legal and Veterans Affairs

Bill "An Act to Amend the Definition of Outdoor Stadium in the Liquor Licensing Laws" (EMERGENCY) (H.P. 1267) (L.D. 1742) (Presented by Representative STONE of Bangor) (Cosponsored by Representatives: BARTH of Bethel, BUNKER of Kossuth Township, CAMPBELL of Holden, CARLETON of Wells, CARR of Hermon, CLARK of Millinocket, CROSS of Dover-Foxcroft, DEXTER of Kingfield, DIPIETRO of South Portland, DONNELLY of Presque Isle, DORE of Auburn, DUNN of Gray, FARNUM of South Berwick, FISHER of Brewer, GIERINGER of Portland, GREEN of Monmouth, GUERRETTE of Pittston, GWADOSKY of Fairfield, HARTNETT of Freeport, JACQUES of Waterville, JOSEPH of Waterville, JOYCE of Biddeford, KERR of Old Orchard Beach, LEMONT of Kittery, LUMBRA of Bangor, MORRISON of Bangor, NASS of Acton, O'GARA of Westbrook, O'NEAL of Limestone, PINKHAM of Lamoine, PLOWMAN of Hampden, POVICH of Ellsworth, REED of Dexter, RICE of South Bristol, ROSEBUSH of East Millinocket, ROWE of Portland, SAMSON of Jay, SAXL of Bangor, SAXL of Portland, STEVENS of Orono, TUTTLE of Sanford, TYLER of Windham, WHITCOMB of Waldo, WINN of Glenburn, WINSOR of Norway, Senators: AMERO of Cumberland, CAREY of Kennebec, CARPENTER of York, CIANCHETTE of Somerset, FAIRCLOTH of Penobscot, FERGUSON of Oxford, HALL of Piscataquis, LAWRENCE of York, O'DEA of Penobscot, PARADIS of Aroostook, PINGREE of Knox, RUHLIN of Penobscot, STEVENS of Androscoggin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act to Revise the State Active Service Laws" (EMERGENCY) (H.P. 1269) (L.D. 1744) (Presented by Representative NADEAU of Saco) (Cosponsored by Representatives: AHEARNE of Madawaska, AULT of Wayne, DRISCOLL of Calais, O'NEAL of Limestone, TRUE of Fryeburg, Senators: MICHAUD of Penobscot, STEVENS of Androscoggin) (Governor's Bill)

Taxation

Bill "An Act to Enable the Loring Development Authority to Establish the Loring Job Increment Financing Fund and to Impose Term Limits on Trustees of the Authority" (H.P. 1266) (L.D. 1741) (Presented by Representative O'NEAL of Limestone) (Cosponsored by Representative TUTTLE of Sanford and Representatives: AHEARNE of Madawaska, CLUKEY of Houlton, DAVIDSON of Brunswick, DESMOND of Mapleton, LAYTON of Cherryfield, MITCHELL of Vassalboro, ROBICHAUD of Caribou, SIROIS of Caribou, WHEELER of Bridgewater, Senators: KIEFFER of Aroostook, PARADIS of Aroostook) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Transportation

Bill "An Act to Exempt Working Rural Mail Carriers from the Seat Belt Law" (H.P. 1265) (L.D. 1740) (Presented by Representative STEDMAN of Hartland) (Cosponsored by Representatives: AHEARNE of Madawaska, AIKMAN of Poland, BIGL of Bucksport, BIRNEY of Paris, BUCK of Yarmouth, CAMERON of Rumford, CAMPBELL of Holden, CARR of Hermon, CHICK of Lebanon, CLARK of Millinocket, CLUKEY of Houlton,

CROSS of Dover-Foxcroft, DAMREN of Belgrade, DEXTER of Kingfield, DORE of Auburn, DUNN of Gray, GERRY of Auburn, GOOLEY of Farmington, GOULD of Greenville, HARTNETT of Freeport, HATCH of Skowhegan, HEINO of Boothbay, HICHBORN of Lagrange, JACQUES of Waterville, JONES of Pittsfield, JOSEPH of Waterville, JOY of Crystal, JOYNER of Hollis, KNEELAND of Easton, LABRECQUE of Gorham, LANE of Enfield, LEMKE of Westbrook, LEMONT of Kittery, LIBBY of Kennebunk, LIBBY of Buxton, LOOK of Jonesboro, MAYO of Bath, McALEVEY of Waterboro, McELROY of Unity, PEAVEY of Woolwich, PERKINS of Penobscot, PINKHAM of Lamoine, POIRIER of Saco, POVICH of Ellsworth, REED of Dexter, RICE of South Bristol, RICHARD of Madison, ROBICHAUD of Caribou, ROSEBUSH of East Millinocket, SAMSON of Jay, SAVAGE of Union, SIROIS of Caribou, SPEAR of Nobleboro, STROUT of Corinth, TAYLOR of Cumberland, TUFTS of Stockton Springs, VIGUE of Winslow, VOLENIK of Sedgwick, WHEELER of Bridgewater, Senators: HARRIMAN of Cumberland, MILLS of Somerset, PARADIS of Aroostook) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Reported Pursuant to Resolve

Representative JACQUES for the Commission to Study Trespass Laws pursuant to Resolve 1995, chapter 53 asks leave to submit its findings and to report that the accompanying Bill "An Act to Improve the Ability of Potential Users of Private Land to Seek Permission from Landowners" (H.P. 1262) (L.D. 1737) be referred to the Joint Standing Committee on Inland Fisheries and Wildlife for Public Hearing and printed pursuant to Joint Rule 20.

Report was read and accepted, and the Bill referred to the Committee on Inland Fisheries and Wildlife, ordered printed and sent up for concurrence.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

ORDERS

On motion of Representative KERR of Old Orchard Beach, the following Joint Order (H.P. 1270) (Cosponsored by Senator HANLEY of Oxford)

Joint Order Propounding Questions to the Justices of the Supreme Judicial Court

WHEREAS, it appears to the Senate and the House of Representatives of the 117th Legislature that the following are important questions of law and that this is a solemn occasion; and

WHEREAS, the Constitution of Maine, Article VI, Section 3, provides for the Justices of the Supreme Judicial Court to render their opinion on these questions; and

WHEREAS, L.D. 1003 from the First Regular Session of the 117th Legislature proposed amending the Constitution of Maine to provide a line-item veto power to the Governor; and

WHEREAS, L.D. 1003 was passed by the Legislature and sent to the people of Maine as 1995 Constitutional Resolution, chapter 1, who passed the measure by referendum vote at the statewide election in November 1995; and

WHEREAS, there exists some ambiguity and confusion as to the operation of the Constitution of Maine,

Article IV, Part Third, Section 2-A and the relationship between the line-item veto power articulated in Section 2-A and the more general veto power of the Governor articulated in Article IV, Part Third, Section 2; and

WHEREAS, in each session of the Legislature there are many legislative documents with an appropriation section, an allocation section or both and the current session is no exception; and

WHEREAS, it is critical to have these outstanding issues resolved in advance of the exercise of the line-item veto; and

WHEREAS, unless the questions of law posed at this solemn occasion are answered, the ability of the Legislature and the Governor to carry out their constitutional duties and responsibilities may be severely compromised; and

WHEREAS, it is important that the Legislature be informed as to the questions raised in this Order; now, therefore, be it

ORDERED, that in accordance with the provisions of the Constitution of Maine, the Senate and the House of Representatives respectfully request the Justices of the Supreme Judicial Court to give the Senate and the House of Representatives their opinion on the following questions of law:

Question No. 1. Once the Governor has exercised the line-item veto power under Section 2-A, if the Legislature overrides any dollar amount vetoed, is the Legislature required to return the document to the Governor to allow the Governor to use the more general veto power under Section 2 to veto the entire document, even though Section 2-A by its own terms provides that any part or parts of the legislative document not specifically revised become law?

Question No. 2. If the answer to question 1 is yes:

A. Does the 10-day limitation imposed on the Governor by Section 2 begin to run upon the initial presentation to the Governor regardless of whether the line-item veto power is used or does it begin to run when it is returned to the Governor again?

B. Within what time frame must the Legislature return the document to the Governor?

C. If the Governor were to attempt to return the document with a second or subsequent exercise of the line-item veto power, must the Legislature continue to reconsider the returned document under Section 2-A?

Question No. 3. For emergency legislation, what is the effective date for any dollar amount revised by the Governor through the use of the line-item veto power in Section 2-A on which the Legislature fails to take action, fails to override or overrides?

The **SPEAKER**: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative **KERR**: Mr. Speaker, Men and Women of the House: The purpose of this order is simply for clarification. There has been some concern about the interpretation of the bill that was passed and voted on by the people of this state on this Constitutional Amendment. What this will simply do is articulate the three questions that are being posed to the Supreme Court and they will come back with their interpretation. I think it is important that we do this now before this Governor or the next Governor exercises this line-item veto. Again, it is only for interpretation purposes. Thank you.

Was read and passed and sent up for concurrence. Ordered sent forthwith.

CONSENT CALENDAR

Second Day

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

(H.P. 1184) (L.D. 1622) Bill "An Act to Promote Parity Between State and Federally Chartered Credit Unions" (C. "A" H-683)

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

The following items were taken up out of order by unanimous consent:

SENATE PAPERS

Bill "An Act to Encourage High-quality Maine Jobs through a 21st-century Maine Program" (EMERGENCY) (S.P. 680) (L.D. 1746)

Came from the Senate, referred to the Committee on **Business and Economic Development** and Ordered Printed.

Was referred to the Committee on **Business and Economic Development** in concurrence.

Bill "An Act to Establish the Boundary Line between the Town of Cornville and the Towns of Solon and Athens" (S.P. 679) (L.D. 1745)

Came from the Senate, referred to the Committee on **State and Local Government** and Ordered Printed.

Was referred to the Committee on **State and Local Government** in concurrence.

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Thursday, January 25, 1996, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

Resolve, Regarding Legislative Computer Information Systems (EMERGENCY) (H.P. 1226) (L.D. 1679)

(Committee on **State and Local Government** suggested)
TABLED - January 18, 1996 by Representative JACQUES of Waterville.

PENDING - Reference.

On motion of Representative MITCHELL of Vassalboro, tabled pending reference and later today assigned.

Bill "An Act to Protect Sources of Drinking Water in the Towns of Searsport, Stockton Springs and Prospect" (H.P. 1218) (L.D. 1668)

(Committee on **Utilities and Energy** suggested)
TABLED - January 18, 1996 by Representative WHITCOMB of Waldo.

PENDING - Reference.

Subsequently, the Bill was referred to the Committee on **Utilities and Energy**, ordered printed and sent up for concurrence.

TABLED AND TODAY ASSIGNED