

# MAINE STATE LEGISLATURE

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# LEGISLATIVE RECORD

OF THE

## **One Hundred And Fifteenth Legislature**

OF THE

## **State Of Maine**

### **VOLUME VII**

#### **SECOND REGULAR SESSION**

Senate

March 10, 1992 to March 31, 1992

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#### **SECOND CONFIRMATION SESSION**

May 20, 1992

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#### **HOUSE AND SENATE LEGISLATIVE SENTIMENTS**

December 5, 1990 to December 1, 1992

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

Senator PEARSON of Penobscot was granted unanimous consent to address the Senate off the Record.

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Senator PEARSON of Penobscot was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator PEARSON of Penobscot, the Senate RECONSIDERED its action whereby it PASSED TO BE ENACTED:

An Act to Open State Government to Public View  
H.P. 1622 L.D. 2290  
(C "A" H-1111)

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator PEARSON: Thank you Mr. President. Ladies and Gentlemen of the Senate. Because we are going to be affected by this on a daily basis, I think it ought to be clear from the very beginning as to how this affects each and every one of us in several different circumstances. One I would like to know on the record if casual conversations are excluded from this Law. I expect that will be answered on the record. I would also like to know, if in any given committee, the Republicans could have a caucus and Democrats could have a caucus to fashion their philosophy to discuss among themselves common ground, I would like to know if that is excluded from the Law? I am sure that I can't anticipate every circumstance that might occur in conversations in the House and the Senate but I would like to know at least those two basic things for the record so I will know exactly how we can conduct ourselves. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator GAUVREAU: Thank you Mr. President. Ladies and Gentlemen of the Senate. L.D. 2290 was submitted to the Committee on Judiciary as Legislation sponsored by Speaker Martin which was introduced largely as an aftermath of the concerns voiced by the Press and others in the private sector last summer and fall as a result of the lengthy debate and discussions we had on the issue of Workers' Compensation during the State shutdown. Concerns were expressed that Legislators should be conducting Legislative business in public and not in private meetings. The Committee on Judiciary has recommended that any Legislative meetings be held in public and any subcommittees of Committees be also open to access to the public. Our proposed Bill defines a Legislative subcommittee as three or more Legislators from a Legislative Committee appointed for the purpose of conducting Legislative business on behalf of the Committee. Therefore, a caucus of

members of a party would not fall within that definition because the Chairs of the Committee would not appoint democrats or republicans to caucus or meet on behalf of the committee. Furthermore, casual conversations between Legislators would not fall within the meaning of this language because the Committee Chairs would have to actually appoint the subcommittee to work on behalf of the Committee. Casual conversations by Legislators during lunch or work would not fall within the meaning of this language. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator CAHILL: Thank you Mr. President. Ladies and Gentlemen of the Senate. I apologize because I am coming in half way through the debate on this issue. I did look at the Legislation and would like to have further clarification if I may. As a member of Leadership, I am sometimes asked by the Republicans on the Appropriations Committee to meet with them to discuss strategy or discuss differences we may have as Republicans on a particular issue. Often times we meet in the little Cabinet room off the Appropriations Committee. While I think it is important to open government up to people, I think the strategy meetings are vitally important to the way we do business in this Legislature. Granted things in the last year things have not worked as well as they should have but I still think to take away the opportunity to meet as we do to discuss differences privately is very important. I would hope this Legislature would not interfere with that ability. If that question has been answered on the record, I do apologize. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator GAUVREAU: Thank you Mr. President. Ladies and Gentlemen of the Senate. As I understand the question posed by the good Senator from Sagadahoc, Senator Cahill, relating to discussion between members of her caucus and the administration, that would clearly fall outside the definition of a Legislative subcommittee because that meeting would not be a Legislative subcommittee as defined in this Bill. The Chairs of the Appropriations and Financial Affairs Committee would not have appointed the republicans to meet with the Governor's team on financial matters. It would only be if Chairs had actually appointed a bi-partisan subcommittee which was to conduct work on a particular area. If there were three or more Legislators in that subcommittee then this Bill would apply. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator CAHILL: Thank you Mr. President. Ladies and Gentlemen of the Senate. I have a further question through the Chair. If the four Republican members on the Appropriations Committee got together to discuss appropriations matters outside of the Appropriations Committee, what would the status of that meeting be? Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator GAUVREAU: Thank you Mr. President. Ladies and Gentlemen of the Senate. I appreciate the spirit in which the question is being raised by our colleague from Sagadahoc, Senator Cahill. In fact, the Committee on Judiciary spent considerable time discussing this very possibility. It was argued that that meeting would not be subject to public review.

It is very clearly a caucus when members of a particular party meet to discuss strategy. It would fall outside the definition of this amendment. This only deals with a Legislative subcommittee and that committee must be appointed by the Chairs of the Committee of Jurisdiction to conduct business on behalf of the committee. Members of a party choosing to meet to discuss strategy or tactics would fall outside this definition. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I apologize to you all but this is a huge departure from the way we have done business in this Legislature in the past. Maybe it is for the better but I think it needs to be clarified and crystal clear in each of our minds. What in the good Senator from Androscoggin, Senator Gauvreau's opinion would happen if Senator Brannigan of Cumberland, Senator Foster of Hancock, and the two House Chair and lead people, what would happen if they got together to discuss their strategy for going before the full Appropriations Committee? Thank you.

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

Senator **CONLEY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I think we would have a budget. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I suspect that in further response to the further inquiry by the Senator from Sagadahoc, Senator Cahill, if the meeting was casual or spontaneous then it would certainly be outside this Bill. In the event that the Chairs of the Committee had specifically assigned members of the Appropriations and Financial Affairs Committee to meet on a certain area of the budget then I think that would fall within the definition of this language. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator **PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I agree with Senator Cahill, this is important. We have to know exactly how we are operating here. I am not Chair of Appropriations as you know but I can remember at times I would say to one of the democrats on my committee "go down and talk to the leads on the Republican party on this issue because you know more about it than we do and come back to talk to us about it." Representative Carroll or someone would go down and talk to them. I appointed him, in effect. I remember an instance that we agreed that he was the guy that ought to go because he knows. We appointed him and he goes down to talk about some issue. Would that fall within the language? Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. As I understand the question, if the Chairs of the Appropriations Committee had asked one of the members of their party to confer with members of the other party to see whether a certain proposal would have some acceptance, it seems to me quite unlikely that would fall within the definition of this language. It would be more of a casual circumstance rather than actually convening a particular subcommittee for the

purpose of actually conducting Legislative business which would be engaging in formal workshop or preparing Legislation. It seems to me that at first blush that type of circumstance would fall outside this language. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator **PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I really do appreciate the Senator from Androscoggin, Senator Gauvreau because there are going to be instances. If we hadn't had this conversation here today people would be wondering for a long time and they would have nothing to refer back to as a guide on which to operate. Although it may be boring and time consuming it is a very important conversation. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Hancock, Senator Foster.

Senator **FOSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I'll be up front and tell you what happens in Appropriations a lot of the time. We have two Leads and we have two Chairmen. Very often we meet and find out what the schedule is going to be and what the problems are. That is very important because there aren't enough hours in the day to have thirteen people talking all the time. In fact we got out at 10:00 last night. I would suggest to you that under this piece of Legislation we probably can't do that. I wonder if you agree? Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Unfortunately, I can't imbue my remarks with that degree of certitude which would answer every question because we have to apply the Law with the facts as we find them. I would think that if it were a matter of practice of the Committee to have two members of each party meet for purposes of scheduling and this was a formal procedure, I think that would fall within Legislative business because that was a custom of practice in that particular committee. If, on the other hand, the two Republicans met with two Democrats to float a trial balloon note that would not fall within this definition. A lot depends upon how we define Legislative business. The members of the Committee on Judiciary believe that actual workshops on particular Bills was what we had in mind. As you recall last summer we had a mega committee of the Banking and Insurance Committee and the Labor Committee and a few adhoc players of which I was one. The Governor's Office would say they had ten issues in controversy and we would then assign subcommittees to work on the issues. Clearly those subcommittees would be conducting Legislative business because they were discussing policy matters. It seems to me that casual discussions would probably fall outside the ambit of this language. Hopefully I have addressed some of the concerns of the Senator from Hancock, Senator Foster. Thank you.

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

Senator **BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. It seems to me what the committee has tried to do and has done well is that right now the Right to Know Law says if any group who are big enough to make final decisions than

it is public. This could put our caucus at risk. What you have done is narrowed that down to say that if any group meets to do business of that committee is three or more then they are open to public scrutiny. That is the issue, not trial balloons, not sounding things out and not trying to work things here and there. The official business that is being carried out by the committee is the record that is being developed here by this discussion. We would rather do our business in public. Thank you.

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would also like to add my remarks on this issue. I always thought the reason the Speaker brought this proposal and people supported it was because of what happened last year. In fact, there was a situation where we had these meetings and people came out and said they said something and other people said they did not say that. We would then go through this big argument on who said what. I don't have the same concerns that are shared by many people in this Body. Whatever is said in private should be good enough to say in public. If you are willing to fight for something in private you should be willing to fight for it in public also. I don't share the same concern about being able to break down into groups. Legislation as crafted would not prevent that from happening regardless. The only thing is whether or not the public would also be invited. I maintain if you feel strongly enough about something to fight for it in private you should be able to do it in public also. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. As one who participated in some of those private meetings, I wanted to put on record I thought it was a bad idea to hold meetings in private then and I think it is a bad idea now. I strongly support what the Committee is offering. Thank you.

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

#### ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act to Create the Fort Kent Utilities District" (Emergency)

H.P. 1736 L.D. 2424

Tabled - March 18, 1992, by Senator **CLEVELAND** of Androscoggin.

Pending - **PASSAGE TO BE ENGROSSED**, without reference to a Committee, in concurrence

(Committee on **UTILITIES** suggested and **ORDERED PRINTED**.)

(In Senate, March 18, 1992, **READ A SECOND TIME**.)

(In House, March 17, 1992, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.)

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED**, without reference to a Committee, in concurrence.

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act to Amend the Laws Governing Construction of Utility Lines" (Emergency)

H.P. 1726 L.D. 2417

Tabled - March 18, 1992, by Senator **CLARK** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED**, without reference to a Committee, in concurrence

(Committee on **UTILITIES** suggested and **ORDERED PRINTED**.)

(In Senate, March 17, 1992, **PASSED TO BE ENGROSSED**, without reference to a Committee, in concurrence. Subsequently, **RECONSIDERED PASSAGE TO BE ENGROSSED**.)

(In House, March 12, 1992, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.)

On motion by Senator **VOSE** of Washington, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED**, without reference to a Committee, in concurrence.

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act to Certify Nonprofessionals Working in Chiropractic Offices"

S.P. 959 L.D. 2428

Tabled - March 18, 1992, by Senator **BALDACCI** of Penobscot.

Pending - **PASSAGE TO BE ENGROSSED**, without reference to a Committee

(Committee on **BUSINESS LEGISLATION** suggested and **ORDERED PRINTED**.)

(In Senate, March 18, 1992, **READ A SECOND TIME**.)

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED**, without reference to a Committee.

The Chair laid before the Senate the Tabled and Specially Assigned matter:

SENATE REPORT - from the Committee on **AGRICULTURE** on Bill "An Act to Expand the Membership of the Animal Welfare Board"

S.P. 696 L.D. 1861

Report - **Ought to Pass as Amended by Committee Amendment "A" (5-639)**.

Tabled - March 18, 1992, by Senator **CLARK** of Cumberland.

Pending - **ACCEPTANCE** of Committee Report

(In Senate, March 18, 1992, Report **READ**.)

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending **ACCEPTANCE** of Committee Report.

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act to Extend the Appraisal License Effective Date" (Emergency)

H.P. 1734 L.D. 2422

Tabled - March 18, 1992, by Senator **BALDACCI** of Penobscot.

Pending - **REFERENCE**

(Committee on **BUSINESS LEGISLATION** suggested and **ORDERED PRINTED**.)

(In House, March 17, 1992, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.)