

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

**OF THE**

***One Hundred and Ninth***

***Legislature***

**OF THE**

**STATE OF MAINE**

**SECOND REGULAR SESSION**

**January 2 to April 3, 1980**

**THIRD SPECIAL SESSION**

**May 22, 1980**

**THIRD CONFIRMATION SESSION**

**July 17, 1980**

**FOURTH CONFIRMATION SESSION**

**July 24, 1980**

**FIFTH CONFIRMATION SESSION**

**September 12, 1980**

**REPORT, HEARING TRANSCRIPT AND  
RELATED MEMORANDA OF THE JOINT  
SELECT COMMITTEE ON INDIAN LAND  
CLAIMS**

STATE OF MAINE  
One Hundred and Ninth Legislature  
Fifth Confirmation Session  
JOURNAL OF THE SENATE

September 12, 1980

Pursuant to the provisions of Article 5, Part 1, section 8 of the Constitution and the laws of the State of Maine, the Senate convened at two o'clock in the afternoon.

Senate called to order by the President.

Prayer by Father Albert Colpitts of St. Mary's Catholic Church of Augusta.

Father COLPITTS: From the Book of Wisdom of our Sacred Scripture, we read: God of our Fathers, Lord of mercy, who by your word have made all things, and in your wisdom have fitted man to rule the creatures that have come from you, to govern the world in holiness and justice, in honesty of soul, and to give authority, grant us wisdom and do not reject us from the number of your children.

This afternoon let us pray!

Gracious and Holy Father, please give us intellect to understand you; reason to discern you; diligence to seek you; a spirit to know you; wisdom to find you; a heart to meditate upon you; ears to hear you; eyes to see you; a way of life pleasing to you; and perseverance to look for you.

May we always remember we are here to serve our sisters and brothers in justice and love. We ask this through your Son Jesus Christ, who lives with the Holy Spirit, one God forever and ever. Amen.

Senate Chamber  
President's Office

May M. Ross  
Secretary of the Senate of Maine  
State House  
Augusta, Maine

Dear Madam Secretary:

Please be advised that in accordance with Article 5, Part 1, section 8 of the Constitution of Maine, the Senate of Maine will convene on September 12, 1980, at two o'clock in the afternoon for the purpose of voting upon confirmation of the various appointments made by The Honorable Joseph E. Brennan, Governor of the State of Maine.

Sincerely,  
S/JOSEPH SEWALL

Which was Read and Ordered Placed on File.

The Roll being called, the following Senators answered to their names:

Ault, Carpenter, Chapman, Clark, Collins, Conley, Cote, Danton, Devoe, Emerson, Farley, Gill, Hichens, Huber, Katz, Lovell, Martin, McBreairty, Minkowsky, Najarian, O'Leary, Perkins, Pierce, Pray, Redmond, Shute, Sutton, Teague, Trafton, Trotzky, Usher, Sewall.

32 Senators having answered to the Roll, the President declared that a quorum was present.

Out of Order and Under Suspension of the Rules:

On motion by Senator Katz of Kennebec, ORDERED, that a message be sent to His Excellency, the Governor, informing him that in accordance with Article 5, Part 1, Section 8 of the Constitution of Maine, a quorum of Senators is assembled in the Senate Chamber for the consideration of such business as may come before the Senate.

Which was Read and Passed.

The President appointed Senator Katz of Kennebec, to convey the message to his Excellency the Governor.

Subsequently, Senator Katz of Kennebec reported that he had delivered the message with which he was charged.

Communications  
Office of the Governor  
Augusta, Maine

July 31, 1980

The Honorable Joseph Sewall  
President of the Senate  
Senate Chambers  
State House  
Augusta, ME  
Dear Senator Sewall:

This is to inform you that I am nominating Paul R. Dumas, Jr. of Rumford to serve as a member of the State Employees Appeals Board.

Pursuant to Title 5 MRSA Section 751, this nomination will require review by the Joint Standing Committee on Labor and confirmation by the Senate.

Thank you for your assistance in this matter.

Sincerely,  
S/JOSEPH E. BRENNAN  
Governor

Which was Read and Ordered Placed on File.

The Senate of Maine  
Augusta

July 31, 1980

The Honorable Roland L. Sutton  
The Honorable Jasper S. Wyman  
Chairmen, Labor Committee  
109th Maine Legislature

Please be advised that Governor Joseph E. Brennan has nominated Paul R. Dumas, Jr. of Rumford for appointment to the State Employees Appeals Board.

Pursuant to Title 5 MRSA Section 751, this nomination will require review by the Joint Standing Committee on Labor.

Sincerely,  
S/MAY M. ROSS  
Secretary of the Senate

Which was Read and Ordered Placed on File.

Committee on Labor

August 15, 1980

The Honorable Joseph Sewall  
President of the Senate of Maine  
State House  
Augusta, Maine  
Dear President Sewall:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 109th Maine Legislature, the Joint Standing Committee on Labor has had under consideration the nomination of Paul R. Dumas, Jr. as a member of the State Employees Appeals Board.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee clerk called the roll with the following result: YEAS:

Senators — 2  
Representatives — 6  
NAY— 0  
ABSENT—5

Senator Pray of Penobscot  
Representative Wyman of Pittsfield  
Representative McHenry of Madawaska  
Representative Tuttle of Sanford  
Representative Dexter of Kingfield  
Eight members of the Committee having voted in the affirmative and none in the negative it was the vote of the Committee that the nomination of Paul Dumas, Jr. as member of the State Employees Appeal Board be confirmed.

Sincerely,  
S/ROLAND SUTTON  
Senate Chairman

Which was Read and Ordered Placed on File.

The PRESIDENT: The Joint Standing Committee on Labor has recommended that the nomination of Paul R. Dumas, Jr. be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on Labor be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint

Rule 38 of the 109th Legislature, the vote will be taken by the yeas and nays. A vote of Yes will be in favor of overriding the recommendation of the Committee. A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEA—None.

NAY—Ault, Carpenter, Chapman, Clark, Conley, Cote, Danton, Devoe, Emerson, Farley, Gill, Hichens, Huber, Katz, Lovell, Martin, McBreairty, Minkowsky, Najarian, Perkins, Pierce, Pray, Redmond, Shute, Sutton, Teague, Trafton, Trotzky, Usher, Sewall.

ABSENT: Collins, O'Leary, Silverman.

No Senators having voted in the affirmative and 30 Senators in the negative, with 3 Senators being absent and none being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Paul R. Dumas, Jr. is confirmed.

Office of the Governor  
Augusta, Maine

August 5, 1980

The Honorable Joseph Sewall  
President of the Senate  
Senate Chambers  
State House  
Augusta, ME  
Dear Senator Sewall:

This is to inform you that I am nominating Gene Carter of Bangor for appointment to the Supreme Court of the State of Maine.

Pursuant to the Maine Constitution Art. V Part 1 Section 8, this nomination will require review by the Joint Standing Committee on the Judiciary and confirmation by the Senate.

Thank you for your assistance.

Sincerely,  
S/JOSEPH E. BRENNAN  
Governor

Which was Read and Ordered Placed on File.

The Senate of Maine  
Augusta

August 5, 1980

The Honorable Samuel W. Collins, Jr.  
The Honorable Barry J. Hobbins  
Chairmen, Judiciary Committee  
109th Maine Legislature

Please be advised that Governor Joseph E. Brennan has nominated Gene Carter of Bangor for appointment to the Supreme Judicial Court of the State of Maine.

Pursuant to the Maine Constitution, Article V Part 1 Section 8, this nomination will require review by the Joint Standing Committee on Judiciary.

Sincerely,  
S/MAY M. ROSS  
Secretary of the Senate

Which was Read and Ordered Placed on File.

Committee on Judiciary

August 25, 1980

The Honorable Joseph Sewall  
President of the Senate of Maine  
State House  
Augusta, Maine  
Dear President Sewall:

In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 38 of the 109th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Gene Carter of Bangor to the Supreme Judicial Court of the State of Maine.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate of the 109th Maine Legislature that this nomination be confirmed. The vote was taken by the yeas and nays. The Committee Clerk called the

Senators — 3  
 Senator Collins  
 Senator Devoe  
 Senator Trafton  
 Representatives — 6  
 Representative Hobbins  
 Representative Hughes  
 Representative Joyce  
 Representative Simon  
 Representative Laffin  
 Representative Silsby

## NAYS:

Senators — 0  
 Representatives — 1  
 Representative Carrier of Westbrook

## ABSENT:

Senators — 0  
 Representatives — 2  
 Representative Sewall of Newcastle  
 Representative Stetson of Wiscasset

9 members of the Committee having voted in the affirmative and 1 in the negative, it was the vote of the Committee that the nomination of Gene Carter to the position of Justice of the Supreme Judicial Court be confirmed.

Sincerely,  
 S/SAMUEL W. COLLINS, Jr.  
 Senate Chairman  
 S/BARRY J. HOBBINS  
 House Chairman

Which was Read and Ordered Placed on File.

The PRESIDENT: The Joint Standing Committee on Judiciary has recommended that the nomination of Gene Carter be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on Judiciary be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 38 of the 109th Legislature, the vote will be taken by the yeas and nays. A vote of Yes will be in favor of overriding the recommendation of the Committee. A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.  
 The Secretary will call the Roll.

## ROLL CALL

YEA—None.

NAY—Ault, Carpenter, Chapman, Clark, Collins, Conley, Cote, Danton, Devoe, Emerson, Farley, Gill, Hichens, Huber, Katz, Lovell, Martin, McBreairty, Minkowsky, Najarian, O'Leary, Perkins, Pierce, Pray, Redmond, Shute, Sutton, Teague, Trafton, Trotzky, Usher, Sewall.

ABSENT—Silverman.

No Senators having voted in the affirmative and 32 Senators in the negative, with 1 Senator being absent and none being less than two-thirds of the membership present it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Gene Carter is confirmed.

(Off Record Remarks)

Office of the Governor  
 Augusta, Maine

August 22, 1980

The Honorable Joseph Sewall  
 President of the Senate  
 Senate Chambers  
 State House  
 Augusta, ME  
 Dear Senator Sewall:

This is to inform you that I am nominating Susan W. Calkins of Portland for appointment to the District Court.

Pursuant to Title 4 MRSA Section 157, this nomination will require review by the Joint Standing Committee on the Judiciary and confirmation by the Senate.

I appreciate your assistance in this matter.  
 Sincerely,

S/JOSEPH E. BRENNAN

Governor

Which was Read and Ordered Placed on File.

The Senate of Maine  
 Augusta

August 22, 1980

The Honorable Samuel W. Collins, Jr.  
 The Honorable Barry J. Hobbins  
 Chairmen, Judiciary Committee  
 109th Maine Legislature

Please be advised that Governor Joseph E. Brennan has nominated Susan W. Calkins of Portland for appointment to the District Court of Maine.

Pursuant to Title 4 MRSA Section 157, this nomination will require review by the Joint Standing Committee on Judiciary.

Sincerely,

S/MAY M. ROSS

Secretary of the Senate

Which was Read and Ordered Placed on File.

Under Suspension of the Rules, the Senate voted to consider the following:

Communication  
 Committee on Judiciary

September 15, 1980

The Honorable Joseph Sewall  
 President of the Senate of Maine  
 State House  
 Augusta, Maine  
 Dear President Sewall:

In accordance with 3 M.R.A., Chapter 6, Section 151, and with Joint Rule 38 of the 109th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Susan W. Calkins to the position of Judge of the District Court of Maine.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate of the 109th Legislature that this nomination be confirmed. The vote was taken by the yeas and nays. The Committee Clerk called the roll with the following result:

## YEAS:

Senators — 3  
 Senator Collins  
 Senator Devoe  
 Senator Trafton  
 Representatives — 8  
 Representative Hobbins  
 Representative Hughes  
 Representative Joyce  
 Representative Simon  
 Representative Sewall  
 Representative Silsby  
 Representative Stetson  
 Representative Drinkwater

## NAYS:

Senators — 0  
 Representatives — 2  
 Representative Carrier  
 Representative Laffin

11 members of the Committee having voted in the affirmative and 2 in the negative, it was the vote of the Committee that the nomination of Susan W. Calkins be confirmed.

Sincerely,

S/SAMUEL W. COLLINS, Jr.

Senate Chairman

S/BARRY J. HOBBINS

House Chairman

Which was Read and Ordered Placed on File.

The PRESIDENT: The Joint Standing Committee on Judiciary has recommended that the nomination of Susan W. Calkins be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on Judiciary be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 38 of the 109th Legislature, the vote will be taken by the yeas and nays. A vote of Yes

Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.  
 The Secretary will call the Roll.

## ROLL CALL

YEA—Cote, Hichens.

NAY—Ault, Carpenter, Chapman, Clark, Collins, Conley, Danton, Devoe, Emerson, Farley, Gill, Huber, Katz, Lovell, Martin, McBreairty, Minkowsky, Najarian, O'Leary, Perkins, Pierce, Pray, Redmond, Shute, Sutton, Teague, Trafton, Trotzky, Usher, Sewall.

ABSENT—Silverman.

2 Senators having voted in the affirmative and 30 Senators in the negative, with 1 Senator being absent and 2 being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Susan W. Calkins is confirmed.

(Off Record Remarks)

Senator Collins of Knox, was granted unanimous consent to address the Senate, On the Record.

Senator COLLINS: Mr. President, sometimes when the flow of nominations from the Governor come to this body, I wonder if the Governor is aware that nearly 94% of the people of this state do not live in the City of Portland. However, I want to say in the case of the nominee that we have just confirmed, I am please he found in the City of Portland, an outstanding candidate for the position in question. Happily this particular candidate hasn't lived in the big city all of her life. She has enough rural background and experience to give her that good sense of balance people need when they are on the bench.

I am very pleased that we had an excellent hearing today. I think we probed the character, the competence, the sense of balance and the intelligence of this particular candidate as thoroughly as we have any candidate that has appeared before the Committee on Judiciary, in the time I have been here.

I want to move to one other topic, just briefly.

On September 6th, I wrote a letter to the attorney general as follows:

"Dear Attorney General Cohen:

There seems to be some confusion over the interpretation of 23 MRSA 1913 et seq. concerning political signs.

If a commercial billboard or other commercial display area is otherwise legal for messages of commercial, charitable or religious content, can political free speech be proscribed except for a three-week period in that same commercial display area?

While I would be happy if candidates voluntarily confined themselves to a three-week period, I am mostly concerned that all candidates be treated in the same manner. That is not the case at present.

If the law itself is constitutional in respect to the political advertising section to what extent can political signs be placed on vehicles?

If the law is not clear, I would like to propose remedial legislation to the 110th Legislature."

I want to say that in presenting that letter, I was aware of the difficulty in answering it. The letter I think perhaps has been helpful in one respect, I think that there are definite signs that the administration of the law, the enforcement of it, is now as even handed as possible.

The Attorney General is in the position, that this issue was litigated in some degree, in the Federal District Court of the District of Maine in 1978. When the Donnelly Advertising Company challenged our Maine Billboard Law, which most of us will remember debating and enacting, Judge Gignoux of the court upheld the constitutionality of that statute.

will be in favor of overriding the recommendation of the Committee. A vote of No will be in favor of sustaining the recommendation of the

The advertising company appealed that decision to the Federal Circuit Court of Appeals for the First Circuit. The case has been argued there, and a decision may come out at any time. It has been quite awhile since the case was argued, and we can expect some definitive word soon.

It is possible of course, that the decision of Judge Gignoux could be overturned, but the Attorney General is certainly in a position that the only Court that has carefully considered this, having said it is constitutional, that he must look upon it as having that posture until some other Court says otherwise.

A law somewhat similar to this was tested in the courts in California about 5 years ago, it went to the Federal Circuit Court of Appeals in that part of the country. It involved in that case a local ordinance that said the size of a sign could not be more than 16 square feet, and had very definite limitations about where within the city the signs might be placed.

The Court in that case upheld the local ordinance, although it issued a number of warnings that if that sort of prohibition about free speech is to be law, there must be a clearly demonstrated need for it expressed. The method for answering the need must be reasonable and proportional to the evil that is addressed.

It is not a black and white area at all, and, because it is of vital importance to each of us in this particular season, I thought I would make this brief report to you.

I am hopeful as a result of the interest that has arisen about this there will be an attitude of compliance, but of watchful waiting to see if the courts think that this is really the answer, and perhaps in the future the development of some more careful and distinct regulations about how we should do it.

Thank you, Mr. President.

The PRESIDENT: The Chair is now pleased, in a sense I suppose, to give some diploma's since it is almost like graduation day here for the 109th Maine Senate. It is hard to expect that there will be any more 109th Senate meetings between now and the rest of this year. We hope that there won't be any, not that it is not a pleasure to see all of you, because it certainly is. In my capacity as presiding officer, I am pleased to be able to give some of the departing Senators a token of their colleagues' affection and a token, I am sure, of the affection of Maine citizens for their long service in the Maine Legislature.

The first graduation gift I present this afternoon is to Senator Albert Cote, who has served 14 sessions in the Maine Legislature, for a total of 28 years, with 1 term in the Senate. Certainly the Maine Legislature will be the poorer for Senator Cote's retirement from the political scene here in Augusta.

The President would ask the Sergeant-at-Arms to escort the Senator from Androscoggin, Senator Cote, to the rostrum so that the Chair might present him with the State of Maine flag that flew over the State House, on the death of a fellow townsman, Governor James Longley. I hope that Senator Cote will accept this gift as a small token of our appreciation for the many years of good service that he has given the people of the State of Maine.

(Applause, the members rising)

The PRESIDENT: The next flag that I will present to a fellow Senator will go to Senator Bennett Katz, who also has served the State of Maine well and faithfully over the many years that he has been both in the House and in the Senate. Senator Katz, has served a total of 18 years in the Legislature, 3 House terms, to-

gether with 6 terms in the Senate. He has been 4 years as a member of Senate Leadership. Again, the Senate and the State will be poorer for his having decided to retire from active politics. We certainly all wish him well and many years of active and happy retirement.

The President would ask the Sergeant-at-Arms to escort the Senator from Kennebec, Senator Katz to the rostrum so that the Chair might present him with a state flag that has flown over the State House and will serve as a reminder of some of the troubled years and good years that he has had in the Maine Senate.

(Applause, the members rising)

The PRESIDENT: Senator Peter Danton, has also served with distinction. He has been with the Senate for 10 years. It seems like only 2 doesn't it, Peter? It has been 10! All of his years have been in the Senate and 6 years as a member of the Minority Party Leadership. He has been a faithful and loyal opponent and certainly the State of Maine owes you a vote of gratitude, Senator Danton, for your many years of service.

The President would ask the Sergeant-at-Arms to escort the Senator from York, Senator Danton, to the rostrum so that the Chair might present him with a flag that has also flown over the State House.

(Applause, the members rising)

The PRESIDENT: Last, but certainly not least is our own Senator Ralph Lovell, who I expect is everybody's favorite Senator. Certainly, Ralph, you will be missed next session and for many sessions to come. Ralph has served 4 terms in the Senate, and 1 term in the House. His wit and wisdom will long be remembered in these halls, I certainly am sure, and I'd be sure to be backed up, in that assumption.

The President would ask the Sergeant-at-Arms to escort the Senator from York, Senator Lovell, to the rostrum so that the Chair might present him with a flag denoting all our love and affection for Ralph Lovell.

(Applause, the members rising)

The PRESIDENT: The Chair should point out that these flags have all gone to people with 10 years or more service in the Legislature.

Now it is a pleasure to present gavel to those individuals who were interested enough, intelligent enough, and good looking enough, to preside over this body from time to time. I am not giving them in any particular order or priority, but just as they happen to be put in front of me.

The first one, I will present to Samuel W. Collins, Jr. who was President Pro-Tem during the past session.

The President would ask the Sergeant-at-Arms to escort the Senator from Knox, Senator Collins, to the rostrum so that the Chair might present him with his graduation present.

(Applause, the members rising)

The PRESIDENT: The next gavel goes to Senator John Chapman from Sagadahoc.

The President would ask the Sergeant-at-Arms to escort the Senator from Sagadahoc, Senator Chapman, to the rostrum so that the Chair might present Senator Chapman with a memento of his term on the rostrum. He did a fine job.

(Applause, the members rising)

The PRESIDENT: Donald O'Leary also served as presiding officer.

The President would ask the Sergeant-at-Arms to escort the Senator from Oxford, Senator O'Leary to the rostrum so that the Chair might have the pleasure of giving him a memento of his labors.

(Applause, the members rising)

The PRESIDENT: Senator Gerard P. Conley, was on the rostrum from time to time, and I am sure that he will add this to the many hundreds of gavels that he has in his collection at home.

The President would ask the Sergeant-at-Arms to escort the Senator from Cumberland, Senator Conley, the loyal opposition, to the rostrum the Chair would be glad to present Senator Conley with a gavel.

(Applause, the members rising)

The PRESIDENT: Senator Bennett Katz performed with admirable distinction many times on the rostrum as I am sure everyone will remember.

The President would ask the Sergeant-at-Arms to escort the Senator from Kennebec, Senator Katz, to the rostrum. The Chair would be pleased to present him with a gavel.

(Applause, the members rising)

The PRESIDENT: Senator Michael Carpenter served with distinction several times at the rostrum.

The President would ask the Sergeant-at-Arms to escort the Senator from Arostook, Senator Carpenter, to the rostrum, so that the Chair might give him a memento of his service up here.

(Applause, the members rising)

The PRESIDENT: Senator Richard Pierce, presided several times, and the Chair is very pleased to present him with a gavel, which will remind him of some of the frustrations and pleasures of the Senate.

The President would ask the Sergeant-at-Arms to escort the Senator from Kennebec, Senator Pierce to the rostrum, so that the Chair might present him with a gavel.

(Applause, the members rising)

(Off Record Remarks)

Out of Order and Under Suspension of the Rules:

On motion by Senator Conley of Cumberland.

ORDERED, that a message be sent to His Excellency, the Governor, informing him that the Senate has transacted all the business which has come before it and ready to Adjourn Without Day.

Which was Read and Passed.

The President appointed Senator Conley of Cumberland, to convey the message to his Excellency the Governor.

Subsequently, Senator Conley of Cumberland, reported that he had delivered the message with which he was charged.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Lovell.

Senator LOVELL: Mr. President, Ladies and Gentlemen of the Senate, and all employees of the Senate. I think that this Senate, the 109th Senate is a really fine group.

I think this is about the fifth time I have adjourned the Senate, and I have thought each time would be the last time, but I guess this will probably be the last time.

I want to wish you all good luck, you fellows and ladies that are running again, and I hope that you get re-elected. Not only that, but I hope you all have the best of health.

God bless you all, I now Adjourn the Senate Sine Die.

On Motion by Senator Lovell of York, at 3:13 p.m., on Friday, September 12, 1980, the Honorable Joseph Sewall, President, declared the Senate of the 109th Legislature Adjourned Sine Die.