

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Eighteenth Legislature
State of Maine

Volume 2

First Special Session (Continued)
May 20, 1997 to June 20, 1997

First Confirmation Session
October 6, 1997

Second Regular Session
January 7, 1998 to March 24, 1998

Pages 981 - 1977

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
SECOND REGULAR SESSION
JOURNAL OF THE SENATE**

In Senate Chamber
Thursday
February 26, 1998

Senate called to order by President Mark W. Lawrence of York County.

Prayer by Reverend Jim McCusker of the Friends of Jesus Christ in Farmington.

REVEREND JIM MCCUSKER: Our heavenly Father, I do thank Thee for this opportunity to offer a prayer for these men and women who, the scriptures say, are actually ministers appointed by Thee to rule in secular affairs. And Lord, Thou knowest that these are desperate days that we're living in when sound, biblical principles are being cast aside and sound reason. Lord, I know that Thou has said that it's impossible, but that offenses and scandals will become into this world. But Thou also has pronounced a woe unto them through whom these scandals and offenses come. I know, Lord, that on the day of judgment that those who issue in unrighteous laws will receive the greater condemnation for having caused people to sin against their consciences by obeying these laws. Lord, I ask Thee to please give these men and women the moral courage to stand up for God and for righteousness, that the state of Maine might indeed lead the way to a great moral reform in this nation. Amen.

Doctor of the Day, Ardis Conner, D.O., Yarmouth.

Reading of the Journal of Wednesday, February 25, 1998.

Out of order and under suspension of the Rules, on motion by Senator PINGREE of Knox, the following Joint Order:
S.P. 835

ORDERED, the House concurring, that when the House and Senate Adjourn they do so until Monday, March 2, 1998, at 10:00 in the morning.

READ and PASSED.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

Out of order and under suspension of the Rules, on motion by Senator PINGREE of Knox, the following Senate Order:
S.O. 28

ORDERED, that a message be sent to the House of Representatives proposing a Joint Convention of both Branches to be held in the Hall of the House at 10:00 in the morning for the purpose of extending an invitation to Major General Earl L. Adams, Commissioner of the Department of Defense, Veterans

and Emergency Management to attend the Convention and deliver such communication as pleases him.

READ and PASSED.

The Chair appointed the Senator from Knox, Senator PINGREE to deliver the message to the House of Representatives. The Sergeant-at-Arms escorted the Senator to the House of Representatives.

Subsequently, the Senator from Knox, Senator PINGREE reported that she had delivered the message with which she was charged.

Off Record Remarks

PAPERS FROM THE HOUSE

House Papers

**Pursuant to Resolve
Commission to Study the Unemployment Compensation
System**

The **Commission to Study the Unemployment Compensation System**, pursuant to Resolve 1997, chapter 65, asked leave to report that the accompanying Bill "An Act to Implement the Majority Report Recommendations of the Commission to Study the Unemployment Compensation System" H.P. 1604 L.D. 2230

Be **REFERRED** to the Committee on **LABOR** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **LABOR** and ordered printed pursuant to Joint Rule 218.

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

REFERRED to the Committee on **LABOR** and ordered printed pursuant to Joint Rule 218, in concurrence.

**Pursuant to Resolve
Commission to Study the Unemployment Compensation
System**

The **Commission to Study the Unemployment Compensation System** pursuant to Resolve 1997, chapter 65 asked leave to report that the accompanying Bill "An Act to Implement the Minority Report Recommendations of the Commission to Study the Unemployment Compensation System" H.P. 1605 L.D. 2231

Be **REFERRED** to the Committee on **LABOR** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **LABOR** and ordered printed pursuant to Joint Rule 218.

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

REFERRED to the Committee on **LABOR** and ordered printed pursuant to Joint Rule 218, in concurrence.

**Pursuant to Statute
Joint Standing Committee on Business and Economic
Development**

The **Joint Standing Committee on Business and Economic Development**, pursuant to the Maine Revised Statutes, Title 3, section 955, subsection 4, asked leave to report that the accompanying Bill "An Act to Implement Recommendations of the Joint Standing Committee on Business and Economic Development Relating to the Review of the Maine Development Foundation under the State Government Evaluation Act" H.P. 1603 L.D. 2229

Be **REFERRED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and ordered printed pursuant to Joint Rule 218.

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

REFERRED to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and ordered printed, in concurrence.

COMMUNICATIONS

The Following Communication: S.C. 556

118TH MAINE LEGISLATURE

February 23, 1998

Major General Earl Adams
33 State House Station
Augusta, Maine 04333

Dear General Adams:

We are pleased to invite you to address a Joint Session of the 118th Maine Legislature on Thursday, February 26, 1998, recognizing the extraordinary efforts to alleviate damage and suffering caused by the severe ice storm of January 1998 and the exemplary conduct of the people of the State of Maine.

Your remarks are scheduled to begin at 10:00 a.m. We look forward to seeing you.

Sincerely,

S/Mark W. Lawrence
President of the Senate

S/Elizabeth H. Mitchell
Speaker of the House

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 557

**DEPARTMENT OF DEFENSE, VETERANS
AND EMERGENCY MANAGEMENT
OFFICE OF THE COMMISSIONER
CAMP KEYES
AUGUSTA, MAINE 04333-0033**

February 24, 1998

The Honorable Mark W. Lawrence
President of the Senate
118th Maine Legislature
3 State House Station
Augusta, Maine 04333-0003

The Honorable Elizabeth H. Mitchell
Speaker of the House
118th Maine Legislature
2 State House Station
Augusta, Maine 04333-0002

Dear President Lawrence and Speaker Mitchell,

Thank you for your letter inviting me to address a Joint Session of the 118th Maine Legislature on February 26 to help recognize the efforts of those who responded so well during the January ice storm. I am pleased to accept your invitation and am deeply appreciative of this opportunity.

Sincerely,

S/Earl L. Adams
Major General
Commissioner

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 558

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON JUDICIARY**

February 24, 1998

The Honorable Mark W. Lawrence
President of the Senate of Maine
118th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Honorable Paul T. Pierson of Stockholm, for reappointment as a Justice of the Maine Superior Court.

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 Longley of Waldo,
LaFountain of York

Representatives: 9 Thompson of Naples, Etnier
of Harpswell, Jabar of
Waterville, Mailhot of
Lewiston, Powers of
Rockport, Plowman of
Hampden, Madore of
Augusta, Nass of Acton,
Waterhouse of Bridgton

NAYS: 0

ABSENT: 2 Sen. Benoit of Franklin, Rep.
Watson of Farmingdale

Eleven 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 Honorable Paul T. Pierson of Stockholm, for reappointment as a Justice of the Maine Superior Court be confirmed.

Signed,

S/Susan W. Longley
Senate Chair

S/Richard H. Thompson
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **RAND** of Cumberland, **NOMINATION TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 559

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON JUDICIARY**

February 24, 1998

The Honorable Mark W. Lawrence
President of the Senate of Maine
118th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Honorable Ian MacInnes of Bangor, for reappointment as a Justice of the Maine Superior Court.

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: 1 LaFountain of York

Representatives: 9 Thompson of Naples, Etnier
of Harpswell, Jabar of
Waterville, Mailhot of
Lewiston, Powers of
Rockport, Plowman of
Hampden, Madore of
Augusta, Nass of Acton,
Waterhouse of Bridgton

NAYS: 0

ABSENT: 3 Sen. Longley of Waldo, Sen.
Benoit of Franklin, Rep.
Watson of Farmingdale

Ten 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 Honorable Ian MacInnes of Bangor, for reappointment as a Justice of the Maine Superior Court be confirmed.

Signed,

S/Susan W. Longley
Senate Chair

S/Richard H. Thompson
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **RAND** of Cumberland, **NOMINATION TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 560

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON JUDICIARY**

February 24, 1998

The Honorable Mark W. Lawrence
President of the Senate of Maine
118th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

LEGISLATIVE RECORD - SENATE, FEBRUARY 26, 1998

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Honorable Jessie Briggs Gunther of Milo, for reappointment as a Judge of the Maine District Court.

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: 1 Longley of Waldo
Representatives: 10 Thompson of Naples, Watson of Farmingdale, Etnier of Harpswell, Jabar of Waterville, Mailhot of Lewiston, Powers of Rockport, Plowman of Hampden, Madore of Augusta, Nass of Acton, Waterhouse of Bridgton
NAYS: 0
ABSENT: 2 Sen. LaFountain of York, Sen. Benoit of Franklin

Eleven 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 Honorable Jessie Briggs Gunther of Milo, for reappointment as a Judge of the Maine District Court be confirmed.

Signed,

S/Susan W. Longley
Senate Chair

S/Richard H. Thompson
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **RAND** of Cumberland, **NOMINATION TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 561

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

February 25, 1998

The Honorable Mark W. Lawrence
President of the Senate of Maine
118th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on State and Local Government has had under consideration the nomination of Michael F. Kelly of Lewiston, for appointment as the Commissioner of the Department of Public Safety.

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: 3 Nutting of Androscoggin, Goldthwait of Hancock, Libby of York
Representatives: 8 Ahearne of Madawaska, Lemke of Westbrook, Bagley of Machias, Sanborn of Alton, Gieringer of Portland, Fisk of Falmouth, Kasprzak of Newport, Gerry of Auburn
NAYS: 0
ABSENT: 2 Rep. Dutremble of Biddeford, Rep. Bumps of China

Eleven 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 Michael F. Kelly of Lewiston, for appointment as the Commissioner of the Department of Public Safety be confirmed.

Signed,

S/John M. Nutting
Senate Chair

S/Douglas J. Ahearne
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **RAND** of Cumberland, **NOMINATION TABLED** until Later in Today's Session, pending **CONSIDERATION.**

Off Record Remarks

SENATE PAPERS

Bill "An Act to Improve the Delivery and Effectiveness of State Correctional Services" S.P. 834 L.D. 2232

Presented by Senator MURRAY of Penobscot.
(GOVERNOR'S BILL)
Cosponsored by Representative POVICH of Ellsworth and Senator MITCHELL of Penobscot, Representative MCALEVEY of Waterboro.

REFERRED to the Committee on **CRIMINAL JUSTICE** and ordered printed.

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

Off Record Remarks

REPORTS OF COMMITTEES

House

Change of Committee

From the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Require a Search Warrant to Investigate Private Property for the Purpose of Forestry Examinations" H.P. 200 L.D. 253

Reported that the same be **REFERRED** to the Committee on **JUDICIARY**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **JUDICIARY**.

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

REFERRED to the Committee on **JUDICIARY**, in concurrence.

Ought to Pass

From the Committee on **LABOR** on Bill "An Act to Increase Health Insurance Benefits for Retired Educators" H.P. 132 L.D. 174

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-815)**.

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

READ ONCE.

House Amendment "B" (H-815) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass As Amended

From the Committee on **NATURAL RESOURCES** on Bill "An Act to Protect Internal Waters of the State" H.P. 55 L.D. 80

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-805)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-805)**.

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

READ ONCE.

Committee Amendment "A" (H-805) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

From the Committee on **NATURAL RESOURCES** on Bill "An Act to Implement the Recommendations of the Interagency Committee on Outdoor Trash Burning" H.P. 1408 L.D. 1972

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-797)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-797) AS AMENDED BY HOUSE AMENDMENT "B" (H-816)** thereto.

Report **READ**.

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

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act to Amend the Prevailing Wage Laws" H.P. 1037 L.D. 1454

Reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-804)**.

Signed:

Senators:

CATHCART of Penobscot
TREAT of Kennebec
MILLS of Somerset

Representatives:

HATCH of Skowhegan
BOLDUC of Auburn
RINES of Wiscasset
STANLEY of Medway
CLARK of Millinocket

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Representatives:

- PENDLETON of Scarborough
- JOYCE of Biddeford
- TREADWELL of Carmel
- LAYTON of Cherryfield

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-804)**.

Reports **READ**.

On motion by Senator **CATHCART** of Penobscot, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

Divided Report

The Majority of the Committee on **MARINE RESOURCES** on Bill "An Act to Increase the Cap on the Total Acreage of Aquaculture Leases That May Be Held by One Person" H.P. 1434 L.D. 1998

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-802)**.

Signed:

Senators:

- GOLDTHWAIT of Hancock
- PENDLETON of Cumberland
- MACKINNON of York

Representatives:

- ETNIER of Harpswell
- VOLENIK of Brooklin
- PIEH of Bremen
- BAGLEY of Machias
- PINKHAM of Brunswick
- HONEY of Boothbay

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Representatives:

- PINKHAM of Lamoine
- PERKINS of Penobscot
- GOODWIN of Pembroke
- LAYTON of Cherryfield

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-802)**.

Reports **READ**.

Senator **GOLDTHWAIT** of Hancock moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On motion by Senator **AMERO** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **GOLDTHWAIT** of Hancock to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Senate

Ought to Pass As Amended

Senator **RUHLIN** for the Committee on **TAXATION** on Bill "An Act to Conform the Maine Tax Laws for 1997 with the United States Internal Revenue Code" (EMERGENCY) S.P. 683 L.D. 1908

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-469)**.

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

READ ONCE.

Committee Amendment "A" (S-469) **READ** and **ADOPTED**.

TOMORROW ASSIGNED FOR SECOND READING.

At this point, a message was received from the House of Representatives, borne by Representative **KONTOS** of Windham, informing the Senate that the House of Representatives concurred in the proposition for a Joint Convention, to be held in the Hall of the House, at 10:00 in the morning for the purpose of extending an invitation to the Major General Earl L. Adams, Commissioner of the Department of Defense, Veterans and Emergency Management to attend the Convention and deliver such communication as pleases him.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act to Exempt from State Income Tax Previously Taxed Contributions to an Individual Retirement Account" S.P. 636 L.D. 1853

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

Signed:

Senators:

- RUHLIN** of Penobscot
- DAGGETT** of Kennebec
- MILLS** of Somerset

Representatives:

TRIPP of Topsham
TUTTLE of Sanford
ROWE of Portland
GAGNON of Waterville
MORGAN of South Portland

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-468)**.

Signed:

Representatives:

GREEN of Monmouth
BUCK of Yarmouth
CIANCHETTE of South Portland
SPEAR of Nobleboro
LEMONT of Kittery

Reports **READ**.

Senator **RUHLIN** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

SECOND READERS

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

House As Amended

Bill "An Act to Allow Police to Take Intoxicated Persons into Custody" H.P. 562 L.D. 753
(C "A" H-798)

Bill "An Act to Amend Review Criteria Used by the Public Utilities Commission" H.P. 1423 L.D. 1987
(C "A" H-803)

Bill "An Act to Make a Nonresident Municipal Shellfish License Fee No More than 1 1/2 Times the Resident Fee" H.P. 1505 L.D. 2127
(C "A" H-800)

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

Senate As Amended

Resolve, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Real Estate in the Unorganized Territory S.P. 699 L.D. 1933
(C "A" S-467)

READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED.

Sent down for concurrence.

ENACTORS

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

Emergency Measure

An Act to Amend the Charter of the Guilford-Sangerville Water District to Increase the Bond Authorization H.P. 1361 L.D. 1912
(C "A" H-793)

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with no Senators having voted in the negative, and 27 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act to Amend the Charter of the Bath Water District H.P. 1421 L.D. 1985
(C "A" H-794)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with no Senators having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act Concerning Reporting Deadlines of Studies Authorized by Law H.P. 1552 L.D. 2181

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with no Senators having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Act

An Act to Require the Development of a Plan for the Recovery, Identification and Disposition of Human Remains in a Disaster H.P. 1429 L.D. 1993

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 following Tabled and Later Today Assigned matter:

NOMINATION - Honorable Paul T. Pierson of Stockholm, for reappointment as a Justice of the Maine Superior Court.

Tabled - February 26, 1998, by Senator **RAND** of Cumberland.

Pending - CONSIDERATION

(In Senate, February 26, 1998, Communication from the Committee on **JUDICIARY READ** and **ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "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 506 of the 118th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: None

NAYS: Senators: **ABROMSON, AMERO, BENNETT, BENOIT, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, KIEFFER, KILKELLY, LAFOUNTAIN, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE**

ABSENT: Senators: **BUTLAND, JENKINS, LIBBY, PENDLETON, SMALL**

No Senators having voted in the affirmative and 30 Senators having voted in the negative, with 5 Senators being absent, and none being less than two-thirds of the Membership present it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and nomination of **Honorable Paul T. Pierson** for reappointment as a Justice of the Maine Superior Court was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

NOMINATION - Michael F. Kelly of Lewiston, for appointment as the Commissioner of the Department of Public Safety.

Tabled - February 26, 1998, by Senator **RAND** of Cumberland.

Pending - CONSIDERATION

(In Senate, February 26, 1998, Communication from the Committee on **STATE AND LOCAL GOVERNMENT READ** and **ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **STATE AND LOCAL GOVERNMENT** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 506 of the 118th Legislature, the vote was taken by the Yeas and Nays.

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

Senator NUTTING: Thank you Mr. President and men and women of the Senate. Yesterday, as you can read from item 2-6, the State and Local Government Committee voted unanimously to recommend to the full Senate the confirmation of Michael Kelly of Lewiston to be the next Commissioner of Public Safety. It has, as you've probably heard, been reported in the press that late last week some concerns were raised over this nominee. Some letters were received. Some of these letters were anonymous and weren't even signed. These concerns were thoroughly addressed by the administration and by their investigators. Those investigators have met with partisan staff. The Committee unanimously felt, based upon this investigation and the public testimony received yesterday, that was very moving, from both state and federal law enforcement professionals, members of the public, and members of Mike Kelly's family, that this nominee had excellent credentials and should unanimously be confirmed by the Senate today. Thank you.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: None

NAYS: Senators: **ABROMSON, AMERO, BENNETT, BENOIT, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, KIEFFER, KILKELLY, LAFOUNTAIN, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE**

ABSENT: Senators: **BUTLAND, JENKINS, LIBBY, PENDLETON, SMALL**

No Senators having voted in the affirmative and 30 Senators having voted in the negative, with 5 Senators being absent, and none being less than two-thirds of the Membership present it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and nomination of **Michael F. Kelly** for appointment as the Commissioner of the Department of Public Safety was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

NOMINATION - Honorable Ian MacInnes of Bangor, for reappointment as a Justice of the Maine Superior Court.

Tabled - February 26, 1998, by Senator **RAND** of Cumberland.

Pending - **CONSIDERATION**

(In Senate, February 26, 1998, Communication from the Committee on **JUDICIARY READ** and **ORDERED PLACED ON FILE**.)

The President laid before the Senate the following: "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 506 of the 118th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: None

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, KIEFFER, KILKELLY, LAFOUNTAIN, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senators: BUTLAND, JENKINS, LIBBY, SMALL

No Senators having voted in the affirmative and 31 Senators having voted in the negative, with 4 Senators being absent, and none being less than two-thirds of the Membership present it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and nomination of **Honorable Ian MacInnes** for reappointment as a Justice of the Maine Superior Court was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

NOMINATION - Honorable Jessie Briggs Gunther of Milo, for reappointment as a Judge of the Maine District Court.

Tabled - February 26, 1998, by Senator **RAND** of Cumberland.

Pending - **CONSIDERATION**

(In Senate, February 26, 1998, Communication from the Committee on **JUDICIARY READ** and **ORDERED PLACED ON FILE**.)

The President laid before the Senate the following: "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 506 of the 118th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: None

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, KIEFFER, KILKELLY, LAFOUNTAIN, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senators: BUTLAND, JENKINS, LIBBY, SMALL

No Senators having voted in the affirmative and 31 Senators having voted in the negative, with 4 Senators being absent, and none being less than two-thirds of the Membership present it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and nomination of **Honorable Jessie Briggs Gunther** for reappointment as a Judge of the Maine District Court was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

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

PAPERS FROM THE HOUSE

House Papers

**Pursuant to Statute
Department of Conservation**

The **Department of Conservation**, pursuant to the Maine Revised Statutes, Title 5, section 8072, asked leave to report that the accompanying Resolve, Regarding Legislative Review of Chapter 501: Exemptions to Fire Bans and Permit Requirements for Outdoor Fireplaces and Grills, a Major Substantive Rule of the Department of Conservation (EMERGENCY)

H.P. 1609 L.D. 2236

Be **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed pursuant to Joint Rule 218.

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

REFERRED to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed pursuant to Joint Rule 218, in concurrence.

**Pursuant to Statute
Department of Human Services**

The **Department of Human Services**, pursuant to the Maine Revised Statutes, Title 5, section 8072, asked leave to report that the accompanying Resolve, Regarding Legislative Review of Chapter 231: Rules Relating to Drinking Water, a Major Substantive Rule of the Department of Human Services (EMERGENCY)

H.P. 1606 L.D. 2233

Be **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

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

REFERRED to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218, in concurrence.

**Pursuant to Statute
Department of Human Services**

The **Department of Human Services**, pursuant to the Maine Revised Statutes, Title 5, section 8072, asked leave to report that the accompanying Resolve, Regarding Legislative Review of Rules Governing the Implementation of Hypodermic Apparatus Exchange Programs, a Major Substantive Rule of the Department of Human Services (EMERGENCY)

H.P. 1607 L.D. 2234

Be **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

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

REFERRED to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218, in concurrence.

**Pursuant to Statute
Department of Marine Resources**

The **Department of Marine Resources**, pursuant to the Maine Revised Statutes, Title 5, section 8072, asked leave to report that the accompanying Resolve, Regarding Legislative Review of Chapter 2.10: Aquaculture Lease Regulations, Lease Categories and Environmental Baseline, a Major Substantive Rule of the Department of Marine Resources (EMERGENCY)

H.P. 1608 L.D. 2235

Be **REFERRED** to the Committee on **MARINE RESOURCES** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **MARINE RESOURCES** and ordered printed pursuant to Joint Rule 218.

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

REFERRED to the Committee on **MARINE RESOURCES** and ordered printed pursuant to Joint Rule 218, in concurrence.

**Pursuant to Statute
Public Utilities Commission**

ROLL CALL

The **Public Utilities Commission**, pursuant to the Maine Revised Statutes, Title 5, section 8072, asked leave to report that the accompanying Resolve, Regarding Legislative Review of Chapter 820: Requirements for Non-Core Utility Activities and Transactions Between Affiliates, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY)

H.P. 1611 L.D. 2237

Be **REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed pursuant to Joint Rule 218.

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

REFERRED to the Committee on **UTILITIES AND ENERGY** and ordered printed pursuant to Joint Rule 218, in concurrence.

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 (2/24/98) Assigned matter:

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act to Extend the Prevailing Wage Laws to the Maine Turnpike Authority" S.P. 708 L.D. 1956

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-463)** (8 members)

Minority - **Ought Not to Pass** (4 members)

Tabled - February 24, 1998, by Senator **RAND** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, February 24, 1998, Reports **READ**.)

Senator **CATHCART** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-463)** Report.

On motion by Senator **PINGREE** of Knox, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

YEAS: Senators: **BENOIT, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, KILKELLY, LAFOUNTAIN, LONGLEY, MACKINNON, MICHAUD, MILLS, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE**

NAYS: Senators: **ABROMSON, AMERO, BENNETT, HALL, HARRIMAN, KIEFFER, MITCHELL**

ABSENT: Senators: **BUTLAND, JENKINS, LIBBY**

25 Senators having voted in the affirmative and 7 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **CATHCART** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-463)** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-463) **READ** and **ADOPTED**.

TOMORROW ASSIGNED FOR SECOND READING.

Senator **PINGREE** of Knox was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator **AMERO** of Cumberland was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senate at Ease

Senate called to order by the President.

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.

Off Record Remarks

Senate at Ease

Senate called to order by the President.

Off Record Remarks

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

ENACTORS

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

An Act Concerning Commercial Fishing in the Vicinity of
Monhegan Island S.P. 743 L.D. 2021
(C "A" S-464)

The Chair ordered a Division. 29 Senators having voted in the affirmative and 1 Senator having voted in the negative, the Bill was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Senator **PINGREE** of Knox was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator **AMERO** of Cumberland was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator **TREAT** of Kennebec was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator **PINGREE** of Knox, **ADJOURNED**, pursuant to the Joint Order, until Monday, March 2, 1998, at 10:00 in the morning.