

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Eighteenth Legislature
State of Maine

Volume 2

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Pages 981 - 1977

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

In Senate Chamber
Tuesday
March 3, 1998

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

Prayer by Reverend Brad Mitchell of the Unitarian/Universalist Church of Brunswick.

REVEREND BRAD MITCHELL: Eternal and loving God, as we gather this morning in this historic assembly to do the people's work, to build upon the endowments of this great state, to recognize and to respond to the challenges of her present and to articulate hope and vision for her future, we ask Your blessings and Your guidance. Give us, we pray, a deep gratitude for the greatness of Maine's people who have, over the centuries, lived, loved, served and died, offering innumerable gifts of individual measure to her upbuilding. Endow us with the spirit and purpose to carry on their work, to support in every measure the raising of strong and caring families. So order our work together that the general well-being of all is served. And then Holy Spirit, move in us, raising us up in spirit, forgiving our imperfections, filling us with hope so that we may dare to dream new dreams of a finer future. Hallow, then, this gathering with blessings of purpose and vision, and awaken our hearts with the joy of being called to serve this great state. In Your Holy name we make this, our prayer. Amen.

Doctor of the Day, Chris Bartlett, M.D., Portland.

Reading of the Journal of Monday, March 2, 1998.

Off Record Remarks

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Amend the Law Concerning Tax Base Sharing"
H.P. 1613 L.D. 2239

Bill "An Act to Provide for Equitable Taxation of All Financial Institutions"
H.P. 1614 L.D. 2240

Come from the House, **REFERRED** to the Committee on **TAXATION** and ordered printed.

REFERRED to the Committee on **TAXATION** and ordered printed, 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 113: Regulations Governing the Licensing and Functioning of Assisted Living Facilities, a Major Substantive Rule of the Department of Human Services (EMERGENCY)
H.P. 1615 L.D. 2241

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

Comes from the House, Report **READ** and **ACCEPTED** and the Resolve **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.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.P. 839

118th MAINE LEGISLATURE

March 2, 1998

Senator Susan Longley
Representative Richard Thompson
Chairpersons
Joint Standing Committee on Judiciary
118th Legislature
Augusta, Maine 04333

Dear Senator Longley and Representative Thompson:

Please be advised that Governor Angus S. King, Jr. has nominated the Honorable Ronald A. Daigle of Fort Kent for reappointment as Maine District Court Judge designated as fulfilling the residency requirements for the First District, the Honorable Courtland D. Perry of Augusta for reappointment as Maine District Court Judge fulfilling the residency requirements for the Seventh District, the Honorable Douglas A. Clapp of Skowhegan for reappointment as Maine District Court Judge fulfilling the residency requirements for the Twelfth District, and the Honorable Michael N. Westcott of Damariscotta for reappointment as Maine District Court Judge fulfilling the residency requirements for the Seventh District established in 4 M.R.S.A. §157.

As provided by 4 M.R.S.A. §157, these nominations will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

LEGISLATIVE RECORD - SENATE, MARCH 3, 1998

Sincerely,

S/Mark W. Lawrence
President of the Senate

S/Elizabeth H. Mitchell
Speaker of the House

READ and REFERRED to the Committee on **JUDICIARY**.

Sent down for concurrence.

The Following Communication: S.P. 840

118th MAINE LEGISLATURE

March 2, 1998

Senator Susan Longley
Representative Richard Thompson
Chairpersons
Joint Standing Committee on Judiciary
118th Legislature
Augusta, Maine 04333

Dear Senator Longley and Representative Thompson:

Please be advised that Governor Angus S. King, Jr. has nominated the Honorable Arthur G. Brennan of York for reappointment as Superior Court Justice.

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

Sincerely,

S/Mark W. Lawrence
President of the Senate

S/Elizabeth H. Mitchell
Speaker of the House

READ and REFERRED to the Committee on **JUDICIARY**.

Sent down for concurrence.

The Following Communication: S.P. 841

118th MAINE LEGISLATURE

March 2, 1998

Senator John Nutting
Representative Douglas Ahearne
Chairpersons
Joint Standing Committee on State and Local Government
118th Legislature
Augusta, Maine 04333

Dear Senator Nutting and Representative Ahearne:

Please be advised that Governor Angus S. King, Jr. has nominated Frederick T. Hayes of Old Orchard Beach and David M. Gauvin of Brewer for reappointment as members of the Workers' Compensation Board.

Pursuant to Title 39-A, M.R.S.A., §151, these nominations will require review by the Joint Standing Committee on State and Local Government and confirmation by the Senate.

Sincerely,

S/Mark W. Lawrence
President of the Senate

S/Elizabeth H. Mitchell
Speaker of the House

READ and REFERRED to the Committee on **STATE AND LOCAL GOVERNMENT**.

Sent down for concurrence.

The Following Communication: S.P. 842

118th MAINE LEGISLATURE

March 2, 1998

Senator William O'Gara
Representative Joseph Driscoll
Chairpersons
Joint Standing Committee on Transportation
118th Legislature
Augusta, Maine 04333

Dear Senator O'Gara and Representative Driscoll:

Please be advised that Governor Angus S. King, Jr. has nominated Lucien B. Gosselin of Lewiston for appointment as a member of the Maine Turnpike Authority.

Pursuant to Title 23, M.R.S.A., §1965, this nomination will require review by the Joint Standing Committee on Transportation and confirmation by the Senate.

Sincerely,

S/Mark W. Lawrence
President of the Senate

S/Elizabeth H. Mitchell
Speaker of the House

READ and REFERRED to the Committee on **TRANSPORTATION**.

Sent down for concurrence.

The Following Communication: S.P. 845

118th MAINE LEGISLATURE

March 2, 1998

Senator Jill Goldthwait
Representative David Etnier
Chairpersons
Joint Standing Committee on Marine Resources
118th Legislature
Augusta, Maine 04333

Dear Senator Goldthwait and Representative Etnier:

Please be advised that Governor Angus S. King, Jr. has nominated Lori Armbrust Howell of Eliot for appointment as a member of the Marine Resources Advisory Council.

Pursuant to Title 12, M.R.S.A., §6024, this nomination will require review by the Joint Standing Committee on Marine Resources and confirmation by the Senate.

Sincerely,

S/Mark W. Lawrence
President of the Senate

S/Elizabeth H. Mitchell
Speaker of the House

READ and **REFERRED** to the Committee on **MARINE RESOURCES**.

Sent down for concurrence.

SENATE PAPERS

Bill "An Act to Require Expeditious Action in Child Protection Cases" S.P. 838 L.D. 2246

Presented by Senator LAFOUNTAIN of York. (GOVERNOR'S BILL)
Cosponsored by Senators LONGLEY of Waldo, MITCHELL of Penobscot, PARADIS of Aroostook, Representatives MADORE of Augusta, MITCHELL of Portland, PLOWMAN of Hampden.

REFERRED to the Committee on **JUDICIARY** and ordered printed.

Sent down for concurrence.

Bill "An Act Relating to Dam Abandonment" (EMERGENCY) S.P. 843 L.D. 2247

Presented by Senator TREAT of Kennebec. (GOVERNOR'S BILL)
Cosponsored by Representative COLWELL of Gardiner and Senator NUTTING of Androscoggin, Representatives SHIAH of Bowdoinham, WATSON of Farmingdale.

REFERRED to the Committee on **NATURAL RESOURCES** and ordered printed.

Sent down for concurrence.

ORDERS

Joint Resolution

On motion by Senator PINGREE of Knox (Cosponsored by Representative KONTOS of Windham, Senators RAND of Cumberland, AMERO of Cumberland, PARADIS of Aroostook, MITCHELL of Penobscot, SMALL of Sagadahoc and Representatives MARVIN of Cape Elizabeth, TOWNSEND of Portland, PIEH of Bremen), the following Joint Resolution:

S.P. 846

JOINT RESOLUTION RECOGNIZING THE 150TH ANNIVERSARY OF THE WOMEN'S RIGHTS MOVEMENT

WHEREAS, 1998 marks the 150th Anniversary of the Women's Rights Movement in the United States, a courageous civil rights movement that began at the first Women's Rights Convention in 1848 in Seneca Falls, New York and that has changed this nation and the hopes of its women and girls irrevocably; and

WHEREAS, the Women's Rights Movement has had a profound impact on all aspects of American life and has offered new and well-deserved opportunities for women in all endeavors, including medicine, commerce, athletics, business, education, religion, the arts, scientific exploration and politics; and

WHEREAS, the girls and boys of today lead richer lives as a direct result of the Women's Rights Movement, yet they have scant opportunity to know the heroes and lessons of this vital movement through the textbooks in most classrooms; and

WHEREAS, the 21st century will find an ever-increasing need for women and men to share in the fundamental responsibilities for our nation and the resulting rewards of full participation in society; and

WHEREAS, there still remain substantial barriers to the full equality of America's women before our freedom as a nation can be called complete; and

WHEREAS, this month of March 1998 is National Women's History Month, celebrated with the theme "Living the Legacy"; and

WHEREAS, on March 3, 1998, we recognize Maine girls, our future leaders, who are learning about political participation through the Second Annual Girls' Day at the State House, sponsored by the Women's Development Institute; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Eighteenth Legislature, now assembled in the Second Regular Session, take this occasion to celebrate the 150th Anniversary of the Women's Rights Movement under the national theme "Living the Legacy: Women's Rights Movement 1848-1998" and call on educators, government officials, businesses and all citizens to mark this year of celebration with appropriate activities to remember with gratitude those who have contributed to equality, fairness, justice and freedom in our State and in our nation; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable Angus S. King, Jr., Governor of Maine, to the Maine Human Rights Commission and to each member of the Maine Congressional Delegation.

READ.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Pingree.

Senator **PINGREE:** Thank you Mr. President and men and women of the Senate. I am pleased to be one of the cosponsors of this resolution and pleased, today, that we are celebrating this momentous occasion. I also wanted to take a moment to welcome the girls who are here in the State House today. And join these two things together, that we are recognizing what has been a very important event. I know I, for one, am very happy that women have achieved some rights and are now able to vote,

and happy to have the girls here with us today, seeing the activities that go on in the State House, thinking about becoming future leaders themselves, thinking about all the women who have come before us. I look forward to the day that we have even more women leaders, women legislators in the state of Maine, and perhaps someday a woman in the White House acting as President. I hope you will all have some time to meet the girls who are here in the State House today and wish them well. Thank you very much.

ADOPTED.

Sent down for concurrence.

Off Record Remarks

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

From the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Expand the Potato Licensing Laws to Include Rotation Crops" H.P. 1442 L.D. 2006

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-817).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-817).**

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

READ ONCE.

Committee Amendment "A" (H-817) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

From the Committee on **LABOR** on Bill "An Act to Revise the Hazardous Occupations Provisions of the Child Labor Laws" H.P. 1413 L.D. 1977

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-813).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-813).**

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

READ ONCE.

Committee Amendment "A" (H-813) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

From the Committee on **TAXATION** on Bill "An Act to Improve Employment Tax Increment Financing" H.P. 1374 L.D. 1923

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-818).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-818).**

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

READ ONCE.

Committee Amendment "A" (H-818) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

From the Committee on **UTILITIES AND ENERGY** on Bill "An Act to Clarify and Enhance Certain Municipal Powers Regarding Solid Waste Disposal" (EMERGENCY) H.P. 1439 L.D. 2003

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-822).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-822).**

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

READ ONCE.

Committee Amendment "A" (H-822) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Clarify the Law Regarding the Discipline of Exceptional Students" H.P. 1006 L.D. 1398

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-809).**

Signed:

Senators:

PENDLETON of Cumberland
CATHCART of Penobscot
SMALL of Sagadahoc

Representatives:

RICHARD of Madison
DESMOND of Mapleton
SKOGLUND of St. George
BAKER of Bangor
BARTH of Bethel
MCELROY of Unity
STEDMAN of Hartland
BELANGER of Caribou

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

Signed:

Representatives:

BRENNAN of Portland
WATSON of Farmingdale

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-809)**.

Reports **READ**.

On motion by Senator **PENDLETON** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-809) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

Majority of the Committee on **LABOR** on Resolve, Instructing the Workers' Compensation Board to Study and Make Recommendations Regarding the Occupational Disease Law
H.P. 610 L.D. 835

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-814)**.

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

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

Signed:

Representatives:

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 Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-814)**.

Reports **READ**.

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

Divided Report

Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Improve Voter Participation"
H.P. 1455 L.D. 2046

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

Signed:

Senator:

DAGGETT of Kennebec

Representatives:

CHIZMAR of Lisbon
BIGL of Bucksport
GAGNE of Buckfield
TUTTLE of Sanford
TRUE of Fryeburg
TESSIER of Fairfield
FISHER of Brewer

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

Signed:

Senators:

CAREY of Kennebec
FERGUSON of Oxford

Representatives:

LABRECQUE of Gorham
BELANGER of Wallagrass
GAMACHE of Lewiston

Comes from the House with the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-821)**.

Reports **READ**.

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

Senate

Refer to Committee

Senator **MURRAY** for the Committee on **CRIMINAL JUSTICE** on Bill "An Act Authorizing the State to Appeal Decisions Granting Preconviction Bail" S.P. 844 L.D. 2248

Reported that the same be **REFERRED** to the Committee on **CRIMINAL JUSTICE**, pursuant to Joint Order (S.P. 825).

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

REFERRED to the Committee on **CRIMINAL JUSTICE**.

Sent down for concurrence.

Change of Committee

Senator **TREAT** for the Committees on **LABOR** and **TAXATION** on Bill "An Act to Implement the Recommendations of the Blue Ribbon Commission on Hunger and Food Security" S.P. 542 L.D. 1661

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

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

REFERRED to the Committee on **TAXATION**.

Sent down for concurrence.

SECOND READERS

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

House As Amended

Bill "An Act to Amend the Membership Requirement for the Cumberland County Budget Advisory Committee" H.P. 1388 L.D. 1941 (C "A" H-811)

Bill "An Act to Clarify Certain Laws Pertaining to the Department of Environmental Protection, Bureau of Land and Water Quality" H.P. 1493 L.D. 2092 (C "A" H-812)

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

Senate As Amended

Bill "An Act to Provide Opportunities for Choice within the Public School System" S.P. 195 L.D. 623 (C "A" S-472)

Bill "An Act to Clarify Mileage Reimbursement for Employees of Community Action Agencies" S.P. 730 L.D. 2008 (C "A" S-474)

Bill "An Act to Amend the Charter of the Van Buren Light and Power District" S.P. 751 L.D. 2029 (C "A" S-470)

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 Expand the Uses of the Economic Opportunity Fund H.P. 1373 L.D. 1922 (C "A" H-795)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 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 Make Additional Allocations from the Public Utilities Commission Regulatory Fund for the Fiscal Year Ending June 30, 1998 S.P. 690 L.D. 1925 (C "A" S-457)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 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 Make Corrections to the Laws Governing the Maine Bail Code S.P. 744 L.D. 2022 (C "A" S-459)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 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 Provide for the 1998 and 1999 Allocations of the State Ceiling on Private Activity Bonds H.P. 1471 L.D. 2062

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with no Senators having voted in the negative, and 30 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.

Acts

An Act to Name a Highway in Burnham in Honor of Medal of Honor Recipient Corporal Clair Goodblood

H.P. 1418 L.D. 1982
(C "A" H-799)

An Act Regarding the Role of the State Planning Office and the Land and Water Resources Council H.P. 1427 L.D. 1991

An Act to Promote the Receipt of Federal Funds and to Clarify the Maine Juvenile Code S.P. 752 L.D. 2030
(C "A" S-458)

PASSED TO BE ENACTED and having been signed by the President were presented by the Secretary to the Governor for his approval.

An Act to Provide Access to Veterinary Education for Maine Students S.P. 739 L.D. 2017
(C "A" S-456)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

ORDERS OF THE DAY

Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Adjournment have preference in the Orders of the Day and continue with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (2/26/98) Assigned matter:

HOUSE REPORT - 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

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-797)**

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

Pending - **ACCEPTANCE OF THE REPORT**

(In House, February 25, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-797) AS AMENDED BY HOUSE AMENDMENT "B" (H-816)** thereto.)

(In Senate, February 26, 1998, Report **READ**.)

Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-797) **READ**.

House Amendment "B" (H-816) to Committee Amendment "A" (H-797) **READ**.

On motion by Senator **TREAT** of Kennebec, House Amendment "B" (H-816) to Committee Amendment "A" (H-797) **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

Committee Amendment "A" (H-797) **ADOPTED** in **NON-CONCURRENCE**.

TOMORROW ASSIGNED FOR SECOND READING.

The Chair laid before the Senate the following Tabled and Later (2/26/98) Assigned matter:

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

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-802)** (9 members)

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

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

Pending - motion by Senator **GOLDTHWAIT** of Hancock to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence

(In House, February 25, 1998, 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).**)

(In Senate, February 26, 1998, Reports **READ**.)

On motion by Senator **GOLDTHWAIT** of Hancock, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

On motion by Senator **CASSIDY** of Washington, the Senate **RECONSIDERED** whereby it **ACCEPTED** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Cassidy.

Senator **CASSIDY:** Thank you Mr. President and men and women of the Senate. I wanted to speak on this particular issue because we've had some concern about this in our area, especially down in the Eastport area and Passamaquoddy Bay. I think we've mentioned on other bills, sometimes the situation that happens there, especially on the first day of dragging those kinds of things. We've had bills here to try and have the dates be the same starting date. The problem that we run into is that geographically that area is relatively small compared to the whole rest of the coast of Maine. We get as many as 120 or 130 boats in there in one day and it does a lot. It devastates the bottom and it takes away the resource. Folks will come in there for three or four days and then leave the area. It's really tough for the fishermen who make their livelihood year-round there to continue, which brings me to this particular issue. Some of the concerns that our draggers have with the scallop and urchin dragging is that we have limited space now and with adding the acreage to this salmon pen area, I think the current law now is 150 per individual and this will go to 250, and what we're concerned with is that it's limiting the bottom again for those folks who make their living in the other part of the industry. It's always an ongoing situation to try and have the balancing act to be fair to everybody. I'm sure the folks in my area would be really upset to see this increase another hundred acres. Because you have to remember, not only is it the acreage that we allow the salmon industry to use but we have a buffer zone around that as well, which is currently 300 feet. I would like to request that you consider the hardship that we're going to put on the other part of the industry. We all support the aquaculture industry. It's been wonderful for the state. It's created a lot of jobs and I think we'll see some continued growth there. But this has gone to the point that it's just going to cause a lot of hardship for other folks in the fishing industry. I would request a division, Mr. President, on this and I would ask that you not support this motion. Thank you.

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

Senator **GOLDTHWAIT:** Thank you Mr. President and ladies and gentlemen of the Senate. I certainly sympathize with and respect the comments of the good Senator from Washington, Senator Cassidy, regarding any potential hardship posed on the traditional fisheries by this particular bill. But I would like to try to reassure him and you about a few of the points. This bill simply

increases the aggregate acreage of a leasehold from 150 to 250 acres. That is not necessarily a single 250 acre lease. It could be smaller leases scattered over a wide area. It simply says that no single owner may own a total of more than 250 acres. At this point there is less than 1% of available bottom being leased for aquaculture use, not farmed but lease held. In Cobbscook Bay which is, frankly, the best site in the state of Maine for fin fish aquaculture, even there it is only about 2.5% of available bottom. When an aquaculture lease is applied for there is public hearing required by state law and the three pieces that must be considered during that public hearing, prior to the granting of such a lease are riparian rights, any interference with navigation, or creation of navigational hazards and cultural and traditional uses of that particular area.

The fishermen are certainly free, and they have not been shy about coming forward at these public hearings to talk about the potential impact of an aquaculture lease on traditional fisheries. Other fisheries are not necessarily excluded, even from underneath the pen sites. That area is leased for the purpose of aquaculture fishing but fisheries such as scallop diving and urchin diving are not restricted. You may set lobster traps in the area of the leased site as long as you don't actually damage or interfere with the aquaculture farm. So, it is not an exclusive lease which shuts out all other fisheries. One of the reasons why increased lease sites are important is that, particularly again, in fin fish aquaculture density is a significant issue. It's a very capital intensive business and in order to survive in that context you really have to have a significant volume of product. With the lease cap set as they are now, people are beginning to increase the density of the fish on their existing leasing. That is more likely to produce some of the disease problems and some of the pollution problems from feed in the area than if we had larger lease areas and spread those fish out over a greater area. Right now there are only four aquaculture leases that are beginning to bump up against that cap. Two are fin fish, one is nory, which is a type of seaweed, and one is a shellfish lease. Two of those four are not in the Cobbscook Bay area. I am, as I said, very sympathetic to the concerns of the traditional fisheries. Because of the requirement for the public hearing in which that issue can be thoroughly aired, I feel that this is worth doing. This provides 1,000 jobs in the state of Maine. It did in 1996. Six hundred of those jobs are in Washington and Hancock Counties where we need them the most. If you look at all fisheries including farmed fish, it is our second highest value crop. It is a bright light as far as the economics go Down East. I'm sure that the good Senator from Washington had a difficult decision facing the number of jobs that that provides in his district versus the needs of the traditional fishermen. But I feel comfortable that this increase in lease size will not have a serious impact on those fisheries. I urge you to support the Majority report. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Cassidy.

Senator **CASSIDY:** Thank you Mr. President and men and women of the Senate. I have just a couple of comments. First of all, we do appreciate the jobs and we've had excellent growth in my district in Washington and also, as the good Senator from Hancock has mentioned, in her county as well. If this bill doesn't pass it's not going to put any of those folks out of jobs. There's plenty of room for expansion there as well, on the current site. Drawing back a little bit to our geometry in high school, if I remember correctly, the area of a circle is πr^2 . Currently, we have

a 300 foot buffer zone around each one of these farms. The comment about dividing these into a lot of small, little ones, it won't be one large one which is even worse, because each one of those has a 300 foot circumference. I'm not going to do the math for you, but if you're interested in it you can cipher that out. Even if we start at zero, we're talking about a lot of bottom that we're going to lose with this particular bill. It's a great idea having this buffer zone but if we add this to each site that each one of these folks have, we're really taking away a lot of the bottom. I might remind you that there are hundreds of jobs as well in the traditional fisheries. We have a lot of folks in our area, and in the good Senator's area as well, who depend on fisheries. This is the problem. We try to do this balancing act. I think we've done a fairly decent job. I remember when we moved the buffer zone from 500 to 300 feet a couple of years ago. I think part of that decision was that even the owners of those pens were not allowed to dive, other than to protect and repair their investment, for the urchins and the scallops because it was unfair. It was like, in your face, to the traditional divers because they weren't allowed to go in there. We tried to eliminate any working situation that wasn't comfortable with all of those folks and tried to help them work together as best we could. It's not always easy, as the good Senator mentioned. You have so many fisheries that are competing for the bottom and for different aspects of the fisheries. With that, I will, again, ask you not to support this. Thank you.

The Chair ordered a Division. 22 Senators having voted in the affirmative and 7 Senators having voted in the negative, the motion by Senator **GOLDTHWAIT** of Hancock to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-802) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

The Chair laid before the Senate the following Tabled and Later (3/2/98) Assigned matter:

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Exempt Nonprofit Ambulance and Fire Emergency Services from the State's Sales Tax" (**EMERGENCY**)

S.P. 189 L.D. 607

Majority - **Ought to Pass as Amended by Committee Amendment "B" (S-476)** (8 members)

Minority - **Ought Not to Pass** (5 members)

Tabled - March 2, 1998, by Senator **RUHLIN** of Penobscot.

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report

(In Senate, March 2, 1998, Reports **READ**.)

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY:** Thank you Mr. President and men and women of the Senate. I would urge you to vote against the pending motion and allow us to go on and accept the Majority Ought to Pass report. This bill is one that has been here before. It was a bill that I presented last year on behalf of volunteer, non-profit ambulance services in my area to exempt them from sales tax. The bill was debated in both this body and the other body, went to Appropriations, did not receive funding and was carried over, and is back again. So, if you feel like you've heard this debate before, you have. For that I apologize, but I'm glad that we've got another chance at this.

I feel that this is a very important issue for a number of reasons. One has to do with the rural nature of this state and the rural bias that, I believe, occurs on a regular basis. For those of you who live in municipalities where the municipality has an ambulance service, that ambulance service does not pay a sales tax when it buys a new ambulance. It doesn't pay a sales tax when it buys equipment. It doesn't pay a sales tax when it buys supplies. If you live in a rural area where a group of people have gotten together in order to provide those services and are primarily getting together to support their communities, because each of the communities does not have the wherewithal to support that service. When those folks go out and go to buy an ambulance, they're paying a sales tax on it. When they go to buy supplies, they're paying a sales tax. And when they go to buy equipment, they're paying a sales tax.

This bill came to me as a result of a complaint that I received from the Central Lincoln County ambulance service. They had been selling Christmas trees and wreaths for several years in order to save enough money to purchase an ambulance. They saved enough money. They ordered the ambulance, and they found that they were going to be charged a sales tax for that ambulance, which would have required one more year of selling Christmas trees and selling Christmas wreaths. That decision was appealed and subsequently they were not required to pay that. However, my concern continues that there are other non-profit ambulance services in this state that are, in fact, being charged a sales tax.

One of the issues that you may hear in debate on this has to do with the fact that folks who are in these non-profit "volunteer" ambulance services are, in fact, being compensated for their time. That's true in some cases. In the case of the Central Lincoln County ambulance service, folks are on call for 12 hours at a time. They are compensated for the hours that they spend in providing direct service. So if there is an ambulance call they will, in fact, be compensated for the time that they spend on that call. They are not compensated for their call-time, in which they don't provide a service and they're not compensated for their training time, which is many, many hundreds of hours that people spend in training preparing for those calls. It is essential in rural areas, particularly in these times of seeing medical services change, that rural people have access to quality emergency medical services.

What we found in our area, for example, is recently the hospital in Bath, that had been there for many, many years, closed and was moved to Brunswick. Now if you live in Wiscasset, you either will go to the hospital in Damariscotta or, if you were used to going in the other direction, your doctor was in Bath, you'll now go as far as Brunswick. It was acknowledged when that hospital closed that the role of the ambulance service,

the role of the emergency medical service, was, in fact, going to change. It changes because there's a requirement for a higher level of care en route to the hospital because it takes longer to get there. It's not just a matter of stopping at the house and grabbing somebody and running with them. It's actually providing services to those folks at the site and services along the way. In Wiscasset we recently have increased our coverage to include paramedics. Rural people are as much in need of emergency medical services as urban people. It's important that there be continuity, in terms of our tax law, regarding these services.

One of the very first bills that I ever worked on was a bill that had to do with tort reform and limiting the liability of volunteer ambulance services. In getting some of the information back from June of 1997, in our emergency preamble on that bill, one of the Whereas is, "Whereas, these services are quasi-governmental in nature and similar to fire protection and other governmental services." They are, in fact, quasi-governmental services. They're services that the state actually requires the municipality to provide because the state requires that the selectmen in a town maintain services for the health and welfare and safety of the people in that town. If these volunteer services by rural people were not, in fact, available then the towns would need to put those services in place. We have, in fact, an unfunded mandate that the selectmen must meet in order to provide for the health and safety and welfare of the citizens of their town. And we've got people who are volunteering to do that, albeit some of them are compensated for part of their time. It seems only reasonable to me that we would extend to them an exemption for sales tax, so that the money that they raise, the money that they get from the towns, from their town meetings is, in fact, available to go directly to services. So I would urge you to defeat the pending motion so that we can go on to accept the Majority Ought to Pass report. Thank you.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending the motion by Senator **RUHLIN** of Penobscot to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report.

Off Record Remarks

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

Off Record Remarks

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

Off Record Remarks

Senate at Ease

Senate called to order by the President.

On motion by Senator **PINGREE** of Knox, **ADJOURNED** until Wednesday, March 4, 1998, at 9:00 in the morning.