

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Seventh
Legislature*

OF THE

STATE OF MAINE

1975

KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Thursday, January 30, 1975

Senate called to order by the President.

Prayer by the Rev. Herbert Reid of Fairfield:

May the words of our mouths and the meditations of our hearts be acceptable in Thy sight, O God, our strength and our redeemer. Amen.

Reading of the Journal of yesterday.

Joint Order

Out of Order and Under Suspension of the Rules, on motion by Mrs. Cummings of Penobscot:

ORDERED, the House concurring, that when the Senate and House adjourn, they adjourn to Tuesday, February 4, at 10 o'clock in the morning. (S. P. 68)

Which was Read and Passed.

Under further suspension of the rules, sent down forthwith for concurrence.

Papers from the House
Non-concurrent Matter

Bill, "An Act to Require the Owners of Foster Homes and of Nursing Institutions to Account for Funds Belonging to Persons Entrusted to their Care." (S. P. 81) (L. D. 254)

In the Senate January 22, 1975, referred to the Committee on Legal Affairs and Ordered Printed.

Comes from the House, referred to the Committee on Health and Institutional Services and Ordered Printed, in non-concurrence.

Which was referred to the Committee on Health and Institutional Services and Ordered Printed in concurrence.

Non-concurrent Matter

Bill, "An Act to Repeal Requirements for an Atlantic Salmon Stamp under the Fish and Game Law." (H. P. 11) (L. D. 16)

In the House January 22, 1975, the Majority Ought to Pass report Read and Accepted and the Bill Passed to be Engrossed.

In the Senate January 22, 1975, the Minority Ought Not to Pass report Read and Accepted, in non-concurrence.

Comes from the House, that Body having Insisted.

On motion by Mr. McNally of Hancock, the Senate voted to Insist and Request a Committee of Conference.

The President appointed the following Conferees on the part of the Senate:

Senators:

McNALLY of Hancock
GRAFFAM of Cumberland
PRAY of Penobscot.

House Papers

Bills, Resolves, and Resolutions today received from the House requiring Reference to Committees were acted upon in concurrence.

Communications

STATE OF MAINE

January 28, 1975

To the Honorable John L. Martin

Speaker of the
House of Representatives
of the One Hundred and
Seventh Legislature:

I have the honor to herewith transmit the budget estimates of expenses of the sixteen counties within the State for the years 1975-1976, the same having been filed in this office according to the provisions of

Title 30, Sections 252 and 253, of the Revised Statutes, as amended of 1972.

Signed:

MARKHAM L. GARTLEY
Secretary of State
(H. P. 381)

Comes from the House, referred to the Committee on Local and County Government, with accompanying papers.

Which was referred to the Committee on Local and County Government, with accompanying papers, in concurrence.

Senate Papers

Mr. Graffam of Cumberland presented the following Joint Resolution and moved its adoption:

Joint Resolutions

STATE OF MAINE

In the Year of Our Lord One Thousand Nine Hundred and Seventy-five.

IN MEMORIAM

Having Learned of the Death of
MRS. FLORENCE STEVENS
LAWRENCE

The Senate and House of Representatives of the State of Maine do hereby extend their sincere heartfelt condolences and sympathy to the bereaved family and friends of the deceased; and further

While duly assembled in session at the State Capitol in Augusta under the Constitution and Laws of the State of Maine, do herein direct that this official expression of sorrow be forthwith sent to the family of the deceased on behalf of the Legislature and the people of the State of Maine. (S. P. 139)

Which was Read and Adopted.

Sent down for concurrence.

Mr. Merrill of Cumberland presented the following Joint Resolution and moved its adoption:

STATE OF MAINE

In the Year of Our Lord One Thousand Nine Hundred and Seventy-Five.

IN MEMORIAM

Having Learned Of The Death Of
HON. JANE CALLAN KILROY
OF PORTLAND

The Senate and House of Representatives of the State of Maine do hereby extend their sincere heartfelt condolences and sympathy to the bereaved family and friends of the deceased; and further

While duly assembled in session at the State Capitol in Augusta under the Constitution and Laws of the State of Maine, do herein direct that this official expression of sorrow be forthwith sent to the family of the deceased on behalf of the Legislature and the people of the State of Maine. (S. P. 142)

Which was Read.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: Jane Callan Kilroy served Portland and Maine for over forty years. Yesterday she died. So we pause for a moment today to pay tribute to her memory and to reflect on the example which she set for us all.

Jane Callan Kilroy's life was a lifetime of service. She served her party. She was a proud and loyal Democrat. And the work that she did for her party helped lay the foundation on which our successes today are built. She served as Vice-Chairman of the Democratic City Committee in

Portland, she served as Vice-Chairman of the Democratic County Committee in the County of Cumberland, and she served on the Democratic State Committee.

Jane Callan Kilroy's life was a lifetime in which she served in the legislature for eighteen years as a Representative from the City of Portland. She first served in the Maine House of Representatives in the years 1935 and 1936, during the depression. She returned in 1959 and served through 1974. While she served in these halls, she served on many joint committees, including the joint committees on Public Utilities, Transportation, Education, and Judiciary. For eighteen years the working people, the children and the elderly of Maine had a good friend here in Jane Kilroy.

Jane Callan Kilroy's life served the cause of equal rights for women. She was the first woman elected to the legislature from Cumberland County. She was the first woman to serve on the legislative joint committee on Transportation. And she brought honor to Maine and to women everywhere when she served as President of the National Order of Women Legislators. She did all this and raised a family of which she was justly proud.

Jane Callan Kilroy spent her life serving people. I can testify, I think, as well as anyone that in my city, the City of Portland, there were thousands of people that felt a sense of personal gratitude to Jane Callan Kilroy. She sang at their weddings, she helped them when they had problems with their state government, she found aid for the sick, and she worked tirelessly to find homes for those who were old and unwanted.

Today we are grieved and saddened, so we pass this Memorial and give official notice to our sense of loss. But we also do so to proclaim our sense of gratitude to a great lady, whose life is a testament to compassion and a model of service. Jane Callan Kilroy knew what many of us often forget, that high ideals and grand plans are sterile and will bear no fruit without people who are willing to reach across the isolation that separates us and to give a helping hand to a fellow human being. Everyone who knew her, all of those whom she helped, all of us here assembled, are thankful to be able to say Kilroy was here.

I move passage of this Memorial and ask that it be sent forthwith to the House for concurrence.

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

Mr. CONLEY: Mr. President and Members of the Senate: I feel, having come to this legislature back in the 102nd and having known Mrs. Jane Kilroy most of my young life as a boy, having lived in the same neighborhood and knowing her family well, I came to know Jane Callan Kilroy as a very fine, dedicated woman and a servant to the citizens of Portland.

I commend the good Senator from Cumberland, Senator Merrill, for the fine words that he has spoken here this morning. The passing of Jane Kilroy certainly will leave a void in the City of Portland, particularly to the children and youth of that city as well as to the aging and the senior citizens.

In the years that I have spent here in Augusta it has been obvious to me and to all the members of this legislature and past legislatures that Mrs. Kilroy worked very, very hard on behalf of those people she represented. I join with all of my

colleagues here today in mourning the passing Jane of Mrs. Jane Callan Kilroy.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: In the passing of Mrs. Kilroy we all lose a very warm, close personality, a woman, an individual, who by her fortitude has commanded through the years the respect of all of us, particularly in the legislature. It was my privilege through the years to work very closely with Mrs. Kilroy and I came to have the greatest admiration for her ability to overcome many obstacles which those of us of lesser stature would find extremely difficult. She was a member of a large family, a beloved mother and wife, and I am sure that the thoughts of the legislature go out to the remaining members of the family in these days.

The PRESIDENT: Is it now the pleasure of the Senate that this Joint Resolution receive passage?

The motion prevailed.

Thereupon, under suspension of the rules, sent down forthwith for concurrence.

Appropriations and Financial Affairs

Mr. Curtis of Penobscot presented (Cosponsor: Mr. Marcotte of York), Bill, "An Act to Provide Funds to Pine Tree Legal Assistance, Inc., for Continued Legal Representation for those in Need." (S. P. 133)

Which was referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Sent down for concurrence.

Business Legislation

Mrs. Cummings of Penobscot presented, Bill, "An Act to Include Procedures Performed by Dentists and Dental Hygienists under Health Insurance Policies and Health Care Contracts which Pay Benefits for those Procedures if Performed by a Physician." (S. P. 136)

Which was referred to the Committee on Business Legislation and Ordered Printed.

Sent down for concurrence.

Labor

Mr. Graffam of Cumberland presented, Bill, "An Act to Clarify the Definition of Employee in the Workmen's Compensation Act." (S. P. 131)

Which was referred to the Committee on Labor and Ordered Printed.

Sent down for concurrence.

Local and County Government

Mr. O'Leary of Oxford presented, Bill, "An Act to Increase the Salaries of Certain County Officials of Oxford County." (S. P. 137)

Which was referred to the Committee on Local and County Government and Ordered Printed.

Sent down for concurrence.

Marine Resources

Mr. Reeves of Kennebec presented (Cosponsor: Mrs. Cummings of Penobscot), Bill, "An Act to Amend the Non-resident Commercial Fishing License." (S. P. 134)

Which was referred to the Committee on Marine Resources and Ordered Printed.

Sent down for concurrence.

State Government

Mr. Curtis of Penobscot presented, Bill, "An Act Relating to the State Soil and

Water Conservation Commission." (S. P. 135)

Mrs. Cummings of Penobscot presented (Cosponsor: Mr. Pray of Penobscot), Bill, "An Act to Authorize the Governor's Committee on Children and Youth to Accept and Administer Certain Available Funds." (S. P. 138)

Mr. Speers of Kennebec presented, Bill, "An Act to Change the Name of the Bureau of Labor and Industry to the Bureau of Labor." (S. P. 140)

Mr. Speers of Kennebec presented (Cosponsors: Mr. Collins of Knox and Mr. Conley of Cumberland), Bill, "An Act to Create a Law Enforcement Education Section within the Criminal Division of the Department of the Attorney General." (S. P. 141)

Which were referred to the Committee on State Government and Ordered Printed.

Sent down for concurrence.

Transportation

Mr. Graffam of Cumberland presented, Bill, "An Act to Require Eye Protection for Motorcycle Riders." (S. P. 132)

Which was referred to the Committee on Transportation and Ordered Printed.

Sent down for concurrence.

Committee Reports

House

Ought to Pass

The Committee on Transportation on, Bill, "An Act Establishing Special License Plates for the Handicapped." (H. P. 40) (L. D. 51)

Reported that the same Ought to Pass.

The Committee on Transportation on, Bill, "An Act Relating to the Erection of a Sign on Maine Turnpike for Pleasant Mountain Recreational Area." (H. P. 75) (L. D. 87)

Reported that the same Ought to Pass.

Come from the House, the Bills Passed to be Engrossed.

Which reports were Read and Accepted in concurrence, the Bills Read Once and Tomorrow Assigned for Second Reading.

Senate

The following Ought Not to Pass reports shall be placed in the legislative files without further action pursuant to Rule 17-A of the Joint Rules:

Bill, "An Act Prohibiting the Payment of Public Aid or Assistance to any Person Winning Prize Money from the Maine State Lottery." (S. P. 47) (L. D. 99)

Bill, "An Act Relating to Bylines for Editorials in Maine Newspapers." (S. P. 53) (L. D. 134)

Bill, "An Act to Make the Showing of Pornographic Films a Nuisance and to Provide for the Abatement of that Nuisance." (S. P. 54) (L. D. 135)

Leave to Withdraw

Mr. Corson of Somerset for the Committee on Legal Affairs on, Bill, "An Act to Reduce Registration Fee for Snow Traveling Vehicles." (S. P. 80) (L. D. 220)

Reported that the same be granted Leave to Withdraw.

Which report was Read and Accepted.

Sent down for concurrence.

Ought to Pass — As Amended

Mr. Clifford for the Committee on Judiciary on, Bill, "An Act to Provide for 6-person Juries in Civil Cases." (S. P. 16) (L. D. 90)

Reported that the same Ought to Pass as

Amended by Committee Amendment "A" (S-3).

Which report was Read and Accepted and the Bill Read Once. Committee Amendment "A" was Read.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Committee Amendment "A"?

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: I wonder if I could ask of the good gentleman who serves on the Committee on Judiciary, the Senator from Androscoggin, Senator Clifford, that he might say a few words about this particular amendment.

I note that the amendment requires that in a 6-man jury, or a 6-person jury, should five of those six individuals concur, then that shall stand as the decision of the jury. I think this is a significant departure from what has been the case since, as far as I know, the jury system has been in existence, in that you would have to have a unanimous verdict in a jury case in order to have that verdict stand as the verdict of the jury, and, if this is such a significant departure, I wonder if the good gentleman would give us the benefit of his thinking on this, or of the Committee on Judiciary.

The PRESIDENT: The Senator from Kennebec, Senator Speers, poses a question through the Chair to the Senator from Androscoggin, Senator Clifford.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President and Members of the Senate, the Senator from Androscoggin, Senator Clifford, has nodded in my direction to answer this question, since this is a bill that I have sponsored.

In answer to the question, I would point out to the Senate that at the present time it is the law that in civil cases a jury may return a verdict by a three-quarters vote of its membership. At the present time, in other words, if nine persons of a 12-member jury vote for a verdict, that is the verdict of the jury.

We voted two years ago to permit 8-member juries, and in an 8-member jury six persons voting for a verdict carry the verdict of the jury by the six votes. When it came to the question of 6-person juries, it was the feeling of the Committee that not only did the three-quarter section of our law prove inapplicable but that to come down to a 4-person margin was too slim, and after discussion in the Committee, it was unanimously agreed that we would recommend that with a 6-person jury the necessary number of votes would be five persons out of the six. That is the rationale of our report.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: I also might point out that the use of an 8-man or a 6-man jury is not mandatory but requires the consent of both parties, so that, if there is no consent, the 12-man jury still is in effect.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Committee Amendment "A"?

Thereupon, Committee Amendment "A" was Adopted and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Second Readers

The Committee on Bills in the Second

Reading reported the following:

House

Bill, "An Act to Clarify the Authorized Indebtedness of the Ellsworth School District." (H. P. 81) (L. D. 103)

Bill, "An Act Relating to Deer Doing Damage to Blueberry Lands." (H. P. 39) (L. D. 50)

Resolve, to Reimburse the Town of Dennysville for Welfare Expenditures. (H. P. 120) (L. D. 145)

Bill, "An Act Authorizing Facsimile Signature of State Tax Assessor." (H. P. 132) (L. D. 149)

Which were Read a Second Time and Passed to be Engrossed, in concurrence.

(Off Record Remarks)

Enactors

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

An Act Relating to the Taking of Alewives in the Town of Whiting, Washington County. (H. P. 12) (L. D. 17)

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: If you will look at your engrossed copy of this bill, you will see that it is practically a carbon copy of L. D. 17. I have checked with the Chairman and the two Senate members of the Fish and Game Committee and verified the facts which I will give you.

We have been trying in the legislature for quite a few years to bring the management and control of our wildlife, be it fish or game, under the control of the several departments in order to get the best harvest from them, and this has gradually been done. It has worked out well too. In this connection, we passed, in title 12, chapter 413, section 3708, a provision for the Department of Marine Resources to grant to any town, under the proper conditions or safeguards, the right to take alewives, be it by the town or to let it out under contract. This has worked out very well.

Starting right up the coast, Damariscotta, Union, any number of places are having good alewife fisheries at the present time under this law. Accordingly, there seems to be no reason to put on a private and special law. It would perhaps do no harm but it might, in a way, subvert the good action that the legislature and the department in the past have taken, that, namely, as I said in the beginning, is to improve the fisheries. Accordingly, Mr. President, I would move that this bill be indefinitely postponed.

The PRESIDENT: The Senator from Cumberland, Senator Berry, moves that this bill and all accompanying papers be indefinitely postponed in non-concurrence. Is this the pleasure of the Senate?

The motion prevailed.

Sent down for concurrence.

(Off Record Remarks)

Orders of the Day

On motion by Mr. O'Leary of Oxford, the Senate voted to take from the unassigned table the following:

House Report — from the Committee on State Government — Bill, "An Act Designating a Legal State Holiday in Remembrance of Martin Luther King Jr." (H. P. 17) (L. D. 25) Ought to Pass in New Draft Under New Title: "An Act Designating a Commemorative Day in Remembrance of Martin Luther King Jr."

(H. P. 271) (L. D. 242)

Tabled — January 28, 1975 by Senator O'Leary of Oxford.

Pending — Acceptance of Report.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. O'LEARY: Mr. President and Members of the Senate: When I tabled this bill the other day, I had in mind a lot of unkind words that I was going to say about Martin Luther King. However, they say that what the world needs is understanding and compassion. I have been told that if you don't have anything good to say about anyone you shouldn't say it, so I am not going to today either. I am just going to show a moment of compassion and not say any more at this present time.

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

Mr. HICHENS: Mr. President and Members of the Senate: In anticipation of the remarks of the Senator from Oxford, I did prepare a rebuttal, more or less. And this will not be a rebuttal, but I think it probably would be appropriate as we consider the ought to pass recommendation by the committee.

I support this ought to pass report of this new draft designating a commemorative day in remembrance of Martin Luther King Jr. During the 106th session, when a bill was presented to designate a legal state holiday in remembrance of this great man, I opposed passage of the bill because I felt that another holiday was not necessary in the State of Maine. As I stated then, I will restate now, that I have admired Martin Luther King Jr. for his efforts on behalf of the rights of the black people, and while he lived, and since his death, have seen the continued respect for the rights of blacks because of his sacrifices and tragic assassination.

Recently I listened to Rev. James Peters, a representative of the American Baptist Convention and former pastor of a church in Bridgeport, Connecticut, tell of his childhood in Washington, D. C., and the rights as an American that he was denied because of his color. Rev. Peters stated that, "As a boy I often gazed upon the statue of Abraham Lincoln at the Lincoln Memorial and questioned as to what all this talk of equality meant." Through the efforts of Martin Luther King Jr. and others like him, Rev. Peters' children and other blacks have had opportunities that this man was denied. Martin Luther King Jr. devoted his life to proving to the people of the United States what equality really means. He sacrificed his life for the very purpose of making "the impossible dream" a reality.

I still oppose the original bill of having a state holiday in memory of this great American, because holidays, unfortunately, do not seem to have much significance in this modern day. Most holidays are celebrated by bargain sales in the department stores and athletic activities, and millions of American boys and girls do not know about the meaning of a day off from school, other than that it is a legal holiday.

With the new draft, proper observance will be conducted in the schools, the day will be designated as a commemorative day, and so reported by the press, and the people of the State of Maine will remember and, hopefully, pause to breathe a prayer of gratitude in remembrance of this man who gave his all for a cause that has changed human relations throughout our nation. Thank you.

The PRESIDENT: The

Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President and Members of the Senate: The committee, as you can tell, came out with a unanimous proposal for this substitution to designate a commemorative day in remembrance of Martin Luther King, Jr.

I would like to pass on a few comments based upon the public hearings which we held. There were several proponents and there were several opponents. There were some of the most intemperate remarks made at that time by some of the opponents that I have ever heard in this State House or seen on television or anyplace else. And based upon that experience, I really think we do have need from time to time, as this proposal suggests, to take a few minutes in the schools, and in the rest of our society in the State of Maine, and think about how fortunate we are that we have a free society in which both proponents and opponents of any idea or suggestion who feel so very strongly about something like this can come to a public forum and make their views heard and then finally have the elected members of that society, through the legislature, take final enactment. So Mr. President, I would like to move adoption of the committee report.

The PRESIDENT: Is it the pleasure of the Senate to accept the ought to pass in new draft report of the Committee?

Thereupon, the Ought to Pass in New Draft Report of the Committee was Accepted in concurrence, the Bill in New Draft Read Once and Tomorrow Assigned for Second Reading.

The Adjournment Order having been returned from the House, Read and Passed in concurrence, on motion by Mrs. Cummings of Penobscot, Adjourned until Tuesday, February 4, 1975, at 10:00 o'clock in the morning.