

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Tenth

Legislature

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 6, 1982 to April 13, 1982

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FOURTH SPECIAL SESSION

April 28, 1982 and April 29, 1982

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FIFTH SPECIAL SESSION

May 13, 1982

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July 16, 1982

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STATE OF MAINE
One Hundred and Tenth Legislature
Second Regular Session
JOURNAL OF THE SENATE

Augusta, Maine
March 1, 1982

Senator called to order by the President.

Prayer by the Reverend Ronald W. Kelly, Jr., of the Bible Speaks Church of Goodwin Mills.

REVEREND KELLY: Thank you, sir. Father, as we are appointed to be Your servants and servants to the people, each one of us in this room today, we pray that You would guide our hearts in the decisions that we have to make. We just pray, Father, that we would have a dedication and a purpose motivated by a sincere love and a purity of heart to make those decisions.

Bless each person here, Father, with their individual needs, and meet those needs. In Jesus' name we pray and we thank You. Amen.

Reading of the Journal of yesterday.

**Papers From the House
Non-Concurrent Matter**

Bill, "An Act to Clarify Variable Rate Disclosures in the Maine Consumer Credit Code." (H. P. 1752) (L. D. 1742)

In the House, February 19, 1982, Passed to be Engrossed as amended by Committee Amendment "A" (H-595).

In the Senate, February 25, 1982, Passed to be Engrossed as amended by Committee Amendment "B" (H-596), in non-concurrence.

Comes from the House, that Body Having Adhered.

The PRESIDENT: Is it the pleasure of the Senate to Recede and Concur with the House? It is a vote.

Joint Orders

Expressions of Legislative Sentiment recognizing:

Oscar Hallee of Waterville, who will celebrate the 100th anniversary of his birth on February 27, 1982. (H. P. 2108)

Mildred and Fred McDonald, of Milo, who observed the 60th anniversary of their wedding on January 30, 1982. (H. P. 2109)

Come from the House, Read and Passed.

Which were Read and Passed, in concurrence.

Joint Resolution

A Joint Resolution in Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of Harry R. Carroll, Dean of Admissions at Colby College, who dedicated his life to students and their education. (S. P. 2110)

Comes from the House, Read and Adopted.

Which was Read and Adopted, in concurrence.

Order

An Expression of Legislative Sentiment recognizing:

Dorothy Crowley Noel, of Auburn, on her recent Election as President to the Central Maine General Hospital-Central Maine Medical Center Nurses Alumni Association for 1982. (S. P. 896) presented by Senator TRAFTON of Androscoggin. (Cosponsors: Representative BRODEUR of Auburn, Representative MICHAEL of Auburn and Representative BOYCE of Auburn).

Which was Read and Passed.

Sent down for concurrence.

**Committee Reports
House**

The following Ought Not to Pass report shall be placed in the legislative files without further action pursuant to Rule 22 of the Joint Rules:

Bill, "An Act to Regulate Dealers in Used

Goods for Resale, Trade or Scrap." (H. P. 1917) (L. D. 1894)

Leave to Withdraw

The Committee on Public Utilities on, Bill, "An Act to Prevent the Pollution of Burntland Pond." (H. P. 1788) (L. D. 1778)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Report was Read and Accepted, in concurrence.

Ought to Pass

The Committee on Local and County Government on, Resolve, for Laying of the County Taxes and Authorizing Expenditures of Waldo County for the Year 1982. (Emergency) (H. P. 2103) (L. D. 2026)

Reported that the same Ought to Pass pursuant to Joint Order (H. P. 1846).

Comes from the House, the Resolve Passed to be Engrossed.

Which Report was Read and Accepted, in concurrence, and the Resolve Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

The Committee on Taxation on, Resolve, Authorizing the Maine Forest Service to Convey by Bid Sale of the State's Interest in Certain Real Estate in the Maine Forestry District and to Use the Proceeds for Energy-saving Improvements to Other Existing Fire Control Buildings. (H. P. 1922) (L. D. 1904)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-609).

Comes from the House, the Resolve Passed to be Engrossed as amended by Committee Amendment "A".

Which Report was Read and Accepted, in concurrence, and the Resolve Read Once. Committee Amendment "A" was Read and Adopted, in concurrence, and the Resolve, as amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Energy and Natural Resources on, Bill, "An Act to Exempt Portions of the Central Maine Air Quality Control Region from Petroleum Liquids Transfer Vapor Recovery Requirements." (H. P. 1836) (L. D. 1833)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-605).

Signed:

Senators:

McBREAIRTY of Aroostook
REDMOND of Somerset
O'LEARY of Oxford

Representatives:

HALL of Sangerville
HUBER of Falmouth
DEXTER of Kingfield
JACQUES of Waterville
MICHAUD of East Millinocket
AUSTIN of Bingham
KIESMAN of Fryeburg
DAVIES of Orono

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

Signed:

Representatives:

MICHAEL of Auburn
MITCHELL of Freeport

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-605).

Which Reports were Read and the Majority Ought to Pass, as amended, Report of the Committee Accepted in concurrence, and the Bill Read Once. Committee Amendment "A" was Read and Adopted, in concurrence, and the

Bill, as amended, Tomorrow Assigned for Second Reading.

Senate

Ought to Pass — As Amended

Senator GILL for the Committee on Health and Institutional Services on, Bill, "An Act Relating to Guide Dogs for Handicapped Persons." (S. P. 765) (L. D. 1823)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-390).

(Representative MCCOLLISTER of Canton Abstained)

Which Report was Read and Accepted and the Bill Read Once. Committee Amendment "A" was Read and Adopted and the Bill, as amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on State Government on, Bill, "An Act to Clarify the Percent for the Art Law." (S. P. 756) (L. D. 1791)

Reported that the same Ought Not to Pass. Signed:

Senators:

AULT of Kennebec
GILL of Cumberland
VIOLETTE of Aroostook

Representatives:

MASTERTON of Cape Elizabeth
SMALL of Bath
DIAMOND of Bangor
GWADOSKY of Fairfield
BELL of Paris

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as amended by Committee Amendment "A" (S-391).

Signed:

Representatives:

KANY of Waterville
PARADIS of Augusta
BOYCE of Auburn
McGOWAN of Pittsfield
DILLENBACK of Cumberland

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Ault.

Senator AULT: I move the Ought Not to Pass Report on LD 1791.

The PRESIDENT: The Senator from Kennebec, Senator Ault, now moves that the Senate Accept the Majority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from York, Senator Wood.

Senator WOOD: Mr. President, Men and Women of the Senate, I extended that courtesy, knowing full well what was going to happen on this Bill. I would urge you today to reject the Ought Not to Pass Report, and Accept the Ought to Pass Report. I would like to speak just briefly on this Bill.

The genesis of this Bill came about as a result of my meeting with the Arts and Humanities Commission back in December of this year. At that time, the Poland community school district was up for approval of their percent for the art project in their school.

Poland, at this point, had had over 25 meetings in their town, and were up for the final approval.

As one of the original co-sponsors of the Bill, I was unaware that they had to come before Arts and Humanities for final approval, and so I thought that this was a burdensome requirement that should not be in the law. So I offered this Bill to remedy that requirement.

At the hearing, there were several arguments raised against the Bill, and I'd like to answer those arguments if I may today.

The first argument was that the Bill hasn't been on the books that long, and let's give it a chance to work before we do anything. Well, I think the point that I'm making with this Bill is that it's a philosophical argument that really

doesn't matter how long the Bill has been on the books. It's over what philosophical bent you want to take with the interpretation of the law.

I'm a believer that those people at the local level who support, in this case, the school, with their tax dollars, that live with that school, but use that school all of the time, should be either final arbiters of what goes into that school in terms of art. That's the philosophical discussion. It doesn't matter how long the Bill has been on the books, but philosophically, who should make that determination? I feel in this case that the schools should make the determination on what goes into their school, knowing full well that they are required by this law, as well as the original law, to meet all of the guidelines the Department lays down. The decision that the school makes is not a frivolous one, but one that is well thought out. They meet all the guidelines. If they've met all those guidelines, then I'm satisfied that they should have the authority to select the work of art.

The second argument that was raised is that this would somehow gut the percent for the art bill, and that this was somehow an anti-art bill. I take offense at that for the reason that I was one of the co-sponsors six years ago of the original percent for the art bill. Four years ago, I was one of the co-sponsors of the successful percent of the art bill. So I have no intention of gutting the percent for the art.

I think in Maine we have a history of local control. People like to make decisions at the local level. If you have a school district that decides that they want a certain artist, or a certain work of art, and the State refuses that and says that they can't have that work of art, I think what you will see in the future is many school districts simply will not participate in this program. If they feel that someone is judging for them, or determining what is culture for them, they simply will not participate. Whether that's a good decision on their part or a bad decision, I think is a fact of life. As long as we have this onerous burden on them in this Bill, you will not see the percent for the art succeed. It is a voluntary effort, schools are not required to participate. If they feel someone is telling them what to do, they simply will not choose to participate.

Instead of gutting the Bill, I think that this proposal today is one way of encouraging further participation by saying to the towns, to the school districts, you have some say in this selection.

The third argument, and one that I consider the most onerous argument, is the quality argument. That somehow if we pass this Bill, the quality of art projects will diminish. I would argue that quality is a relative thing. I would argue in the case of Poland. They had over 25 meetings. They solicited support from the community in making their determination, because as they said to me, it's our building. We were proud of this building. We wanted to show it off to the town. So they're going to take a serious interest in what hangs in their building.

It's interesting to note, in the Poland case, they had 25 meetings of local people. Two people were appointed by Arts and Humanities to serve with the local people. Those two people are representatives, so to speak, to the board, went to 2 of the 25 meetings. That says something about the quality of the people we put on board to represent our interest.

Finally, the quality argument is one that I think tends to serve the elitist attitudes of the art world. I think that for too long we have looked at art as sort of a privilege of the rich, the privilege of the educated. I think that this furthers that belief when we say that somehow local districts will not be able to determine quality.

I would only point out that any student of art history will realize that most of the great music, most of the great art, and most of the great literature was never accepted originally by the critics or by the art world. It was only

after it was accepted by the general populace, that these works became accepted by the art world. They had been poor judges in the past of what is art. I think they will, in the future, be just as poor judges.

So I realize that this Bill has been lobbied. Many people have received calls. I have no illusions that it will pass. I think maybe that the Bill has served some useful purposes by sending a message to Arts and Humanities that we want them in the future when they appoint people to these boards, to attend the meetings, and that we want them to look very carefully at what the local people are doing and have good reasons for rejecting it.

I still think that we should send a message to our local schools that says that we trust your determinations, that once you have met all the guidelines we laid down, you are the final determining factor as to what will hang in your school. Thank you.

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

Senator GILL: Mr. President and Members of the Senate, this Bill is before us because of the one situation that Senator Wood spoke of, the Poland situation. The Arts and Humanities Council sending two delegates to those particular meetings recognizing that those participants that were chosen were really not willing to give the time or spend the time in that situation.

They have received the message loud and clear from the Legislature and by means of the hearing that we held on this particular Bill.

They are now working with eight different districts, at this present time, and they're not running into any difficulty.

So I think it's a matter of initiating that program and making some mistakes and learning from those mistakes. We haven't heard anything from those other eight communities that they're dealing with.

I think the local communities do have ample time for input into what they want in their own communities as art. I think we will see this as time goes on and the Bill is allowed to live as it was intended last time.

What is the motion, Mr. President?

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Ault, that the Senate Accept the Majority Ought Not to Pass Report of the Committee.

Senator GILL: I would urge the Senate to go along with that motion.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of the motion to Accept the Majority Ought Not to Pass Report of the Committee, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

18 Senators having voted in the affirmative, and 6 Senators having voted in the negative, the motion to Accept the Majority Ought Not to Pass Report of the Committee does prevail.

Sent down for concurrence.

Second Readers

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

Senate

Bill, "An Act to Provide for Special Warehouse Storage Facilities for Liquor." (S. P. 828) (L. D. 1936)

Which was Read a Second Time and Passed to be Engrossed.

Sent down for concurrence.

Enactor

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

AN ACT to Clarify the Certificate of Approval Holder and Maine Wholesale Licensee Agreement Act." (S. P. 768) (L. D. 1826)

On motion by Senator Conley of Cumberland, Tabled for 1 Legislative Day, pending Enact-

ment.

Orders of the Day

The President laid before the Senate the first Tabled and specially assigned matter:

Bill, "An Act Authorizing the County of Cumberland to Raise Funds for the Construction of a Court House, Capital Improvements and Related Facilities." (H. P. 2087) (L. D. 2024)

Tabled—February 25, 1982 by Senator PERKINS of Hancock.

Pending—Reference.

On motion by Senator Conley of Cumberland, Retabled for 2 Legislative Days.

The President laid before the Senate the second Tabled and specially assigned matter:

RESOLVE, Authorizing the Exchange of Certain Public Reserved Lands. (H. P. 1739) (L. D. 1728)

Tabled—February 26, 1982 by Senator PRAY of Penobscot.

Pending—Final Passage.

Which was Finally Passed and having been signed by the President, was by the Secretary presented to the Governor for his approval.

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

Papers From the House House Papers

Bill, "An Act to Establish "Free Look" Requirements for Medicare Supplement Policies." (Emergency) (H. P. 2111) (L. D. 2036)

Comes from the House, referred to the Committee on Business Legislation and Ordered Printed.

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

Bill, "An Act to Require Installation of Electrical Generators in Nursing Homes for Emergency Use." (H. P. 2112) (L. D. 2037)

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

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

(Senate at Ease)

The Senate called to order by the President.

On motion by Senator Pierce of Kennebec, Adjourned until 10 o'clock tomorrow morning.